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ABSTRACT

Identified and summarized are major issues relating to education of the handicapped, and provided is an overview of state legislation developed to solve administrative problems of special education. Major issues considered are rights to an education, mandatory legislation for the handicapped, statewide planning and advisory councils, finance and funding patterns, continuing education for the handicapped, and manpower. Following the discussion of each issue is a listing of state legislation introduced and passed in 1972, and legislation introduced but not enacted in 1972. The full texts of 1972 bills are usually given. A source of more detailed information regarding recent legislation is also given. (DB)

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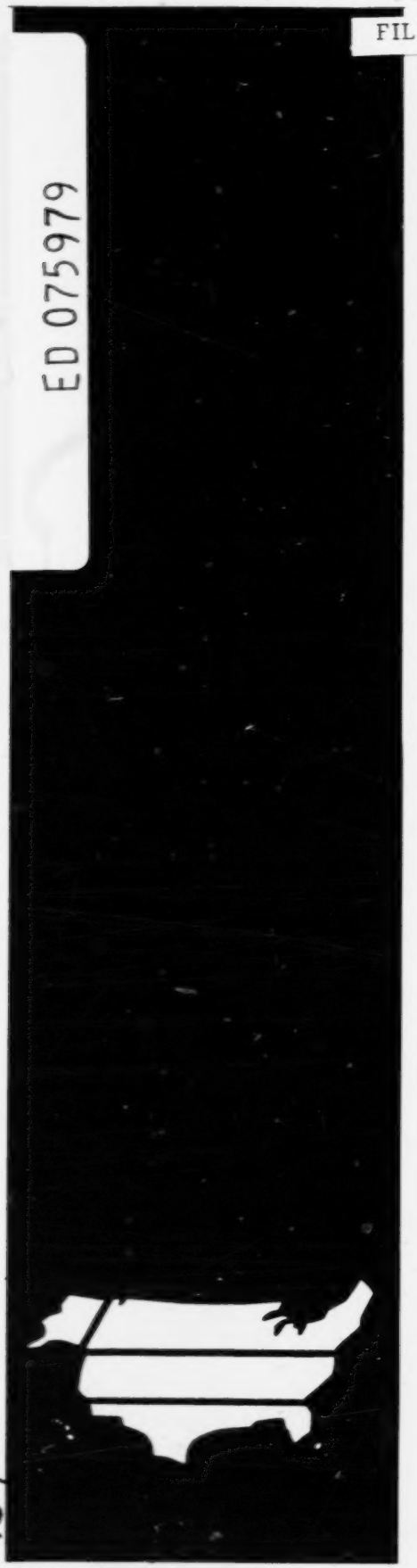

A report of
THE EDUCATION COMMISSION
OF THE STATES

March 1973

Report No. 36
(Preliminary Issue)

Prepared by
HACHE
Handicapped Children's Education Project

A project of the Education Commission of the States

EC 051 957

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FOREWARD

The Handicapped Children's Education Program has received numerous requests for recent information concerning legislative activities at the state level. Second only to requests for specific information concerning state legislation are requests for factual information regarding the major issues in improving educational services for the handicapped, e.g., rights to an education, finance, and planning. Contained herein are basic data relating to the following issues:

1) rights to an education
2) mandatory legislation for the handicapped
3) statewide planning and advisory councils
4) finance and funding patterns
5) continuing education for the handicapped
6) manpower

Following each section is (1) legislation introduced and passed and (2) legislation introduced but not enacted in each state which related directly to selected issues.

The purpose of this publication is to identify a number of major issues relating to the education of the handicapped and to provide an overview of legislation which has been developed as a means of solving some of the major administrative problems in the field of special education. If more detailed information is desired concerning recent legislation in a given state, please contact the Handicapped Children's Education Program/Education Commission of the States. This information was compiled by Mr. C.D. Jones, Jr., Research Associate for the Handicapped Children's Education Program.

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A SUMMARY OF ISSUES AND STATE LEGISLATION RELATED TO
THE EDUCATION OF HANDICAPPED CHILDREN IN 1972

1) Right to an Education
   - I. Legislation Enacted in 1972
   - II. Legislation Introduced but Not Enacted in 1972

2) Mandatory Legislation
   - I. Legislation Enacted in 1972
   - II. Legislation Introduced but Not Enacted in 1972

3) Statewide Planning and Advisory Councils
   - A) Planning
     - I. Legislation Enacted in 1972
     - II. Legislation Introduced but Not Enacted in 1972
   - B) Advisory Councils
     - I. Legislation Enacted in 1972
     - II. Legislation Introduced but Not Enacted in 1972

4) State Responsibility and Advocacy
   - I. Legislation Enacted in 1972
   - II. Legislation Introduced but Not Enacted in 1972

5) Finance and Funding Patterns in the States
   - I. Legislation Enacted in 1972
   - II. Legislation Introduced but Not Enacted in 1972

6) Minimum and Maximum Age Ranges
   - A) Early Education Programs for the Handicapped
     - I. Legislation Enacted in 1972
     - II. Legislation Introduced but Not Enacted in 1972
     - III. Legislation Affecting Federal Funding
   - B) Continuing (Career) Education for the Handicapped

7) Manpower Preparation for Handicapped Children
   - A) Legislation Affecting Federal Funding
   - B) Legislation Affecting State Funding

ISSUE: RIGHT TO AN EDUCATION

BACKGROUND INFORMATION

The U.S. Office of Education/Bureau of Education for the Handicapped indicated that as of July 1, 1968, there were approximately 75 million children in the United States between the ages of 0-19 years of age. Approximately 7,083,500 were handicapped.[1] Categorically speaking these seven million children include the following:

IMPAIRED									
SPEECH	VISUALLY	CRIPPLED AND OTHER HEALTH	DEAF	HARD OF HEARING	MULTIPLE HANDICAPPED	LEARNING DISABLED	MENTALLY RETARDED	EMOTIONALLY DISTURBED	TOTAL
2,440,500	69,800	348,600	52,300	348,600	40,900	697,300	1,697,500	1,388,000	7,083,500

Studies by the U.S. Office of Education have disclosed that in 1948, 12 percent of the handicapped children received special education services; 21 percent received special education services in 1963; 33 percent received special education services in 1967; and approximately 40 percent of the handicapped received special education services in 1971.[2] In other terms, 60 percent of the handicapped are not now receiving the special education services they need. Categories of children served and unserved as identified by the U.S. Office of Education/Bureau of Education for the Handicapped in the 1971-72 school year were:

	IMPAIRED									
	SPEECH	VISUALLY	CRIPPLED AND OTHER HEALTH	DEAF	HARD OF HEARING	MULTIPLE HANDICAPPED	LEARNING DISABLED	MENTALLY RETARDED	EMOTIONALLY DISTURBED	TOTAL
SERVED	1,360,203	30,630	182,636	55,624	43,915	9,310	166,534	872,213	156,486	2,857,551
UNSERVED	1,080,297	39,170	165,964	16,676	304,685	31,590	530,766	825,287	1,231,514	4,225,949

Without appropriate educational opportunity, many handicapped children would remain an economic liability to the state. As productive citizens, however, they can become both economic and social contributors to the nation. It has been estimated that one million handicapped children have not received educational opportunities due to provisions in compulsory school attendance laws which exclude them from public education.[3] Exclusion clauses of this type in state

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1. "Estimates on the Number of Children Served and Unserved 1971-1972," Fiscal Year Projected Activities, Bureau of Education for the Handicapped/U.S. Office of Education (Washington, D.C., 1971).
2. Frederick J. Weintraub, Alan R. Abeson, and David L. Braddock, State Law and Education of Handicapped Children: Issues and Recommendations (Washington, D.C., 1971), p. 14.
3. Ibid., p. 17.

laws raise serious moral questions. However, from a pure economic perspective, 90 percent of handicapped children with appropriate education can become tax paying citizens. It has been estimated that each handicapped child that receives an appropriate education is worth at least a quarter of a million dollars to society; half in reduced welfare and institutional costs and half in increased productivity.

Judicial interpretations of the constitutionality of provisions in compulsory school attendance laws which exclude handicapped children from public education have not been extensive. However, there have been numerous decisions which provide for including handicapped children in the best educational programs of this nation.

SUMMARY OF RELATED LITIGATION

In Watson v. City of Cambridge (1893) a Massachusetts court ruled that the school committee could expel from school, children who persisted in disorderly conduct "either voluntarily or by reason of imbecility."

In Beattie v. Board of Education (1919) a Wisconsin Superior Court considered the case of a handicapped child who was not a physical threat and was academically capable but who, because of his handicap produced "a depressing and nauseating effect on the teachers and school children" and took up an undue portion of the teacher's time. The court ruled that "the rights of a child of school age to attend the public schools of the state cannot be insisted upon, when its presence therein is harmful to the best interest of the school." However, in 1967 the Attorney General re-examined and it was reaffirmed that local school authorities have the power to suspend or exclude a pupil. It was pointed out at the same time, however, that the obligation to provide children with a free public education does not cease upon exclusion and that other means for their education must be provided.

In Fred G. Wolfe, et. al. v. The Legislature of the State of Utah (1969), Judge D. Frank Wilkens of the Third Judicial Court, in rendering a decision concerning the denial of admission to the regular school system of two trainable mentally retarded children, said: "Education today is probably the most important function of state and local governments. It is a fundamental and inalienable right and must be so if the rights guaranteed to an individual under Utah's constitution and the United States constitution are to have any real meaning. Education enables the individual to exercise those rights guaranteed him by the constitution of the state of Utah and the constitution of the United States of America. Today it is doubtful that any child may reasonably be expected to succeed in life if he is denied the right and opportunity of an education. In the instant case, the segregation of the plaintiff children from the public school system has a detrimental effect upon the children as well as their parents. The impact is greater when it has the apparent sanction of the law for the policy of placing these children under the Department of Welfare and segregating them from the educational system can be and probably is usually interpreted as denoting their inferiority, unusualness, uselessness and incompetency. A sense of inferiority and not belonging affects the motivation of a child to learn. Segregation, even though perhaps well intentioned, under the apparent sanction of law and state authority has a tendency to retard the educational, emotional and mental development of the children. The setting aside of these children in a special class affects the plaintiff parents in that under apparent sanction of law and state authority they have been told that their children are not the same as other children of the state of Utah which, to say the least, cannot have a beneficial effect upon the parents of these plaintiff children."[4]

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4. Ibid., p. 12-13.

In a more recent court decision, January 1971, the Pennsylvania Association for Retarded Children brought suit against Pennsylvania (Pennsylvania Association for Retarded Children, Nancy Beth Bowman, et. al. v. Commonwealth of Pennsylvania, David H. Kurtzman, et. al.) for the state's failure to provide all retarded children access to a free public education. The suit specifically questioned public policy as expressed by law, policies, and practices which exclude, postponed, or denied free access to public education opportunity to school age mentally retarded children who could benefit from such an education. The suit was heard by a three judge panel in the Eastern District Court of Pennsylvania. A June 1971 stipulation and order and an October 1971 injunction, consent agreement and order resolved the suit. The three judge panel in signing the consent agreement between the Pennsylvania Association for Retarded Children and the Commonwealth of Pennsylvania mandated a free public education to all retarded children of school age. The decree further stated that local school districts providing preschool education to any children are required to provide the same for mentally retarded children.[5]

In a Mills v. D.C. Board of Education Civil Action Number 1939-71 (District of Columbia) after a year of litigation and controversy regarding the admitted failure of the District to provide a public education for handicapped, disturbed and retarded children, a federal judge in Washington, D.C. declared that handicapped and emotionally disturbed children have a constitutional right to a public education and ordered the District of Columbia to offer all such children educational facilities within 30 days. In a sweeping opinion, U.S. District Court Judge Joseph C. Waddy also directed the District school system to establish elaborate hearing procedures under which no pupil could be placed in a special education program or be suspended from school for more than two days without a public hearing. The judge also ordered the District to come up with a written, comprehensive plan for providing special education facilities and identifying those children who need them within 45 days. He threatened to appoint a special master for the school system if his order is not carried out. The 30-day deadline applies to children already known to the system. During the past year of litigation, the District and the school board had generally conceded that there was an obligation to provide public education for the handicapped, but said they faced a number of obstacles in providing such education. Judge Waddy replied that none of those obstacles mattered.[6]

Michael Burnstein, Fred Polk, et. al. and Alan Miller, Jonathan Booth, et. al. v. The Board of Education and the Superintendent of the Contra Costa County School District. The plaintiff children are described as autistic, for whom inappropriate or no public education programs have been provided. Within this suit there are two sets of

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5. A Continuing Summary of Pending and Completed Litigation Regarding the Education of Handicapped Children, ed. Alan Abeson (Washington, D.C., 1972) p. 1.
6. "Judge Orders Schooling of Handicapped Children," National Catholic Educational Association Special Education Newsletter, II (September 1972), 29.

petitioners and two classes. The first class includes autistic children residing in Contra Costa County, California, who have sought enrollment in the public schools but were denied placement because no educational program was available. The second class of petitioners includes five children also residing in Contra Costa County and classified as autistic. These children have been enrolled in public special education classes but not programs specifically designed to meet the needs of autistic children. The complaint alleges that no services were provided to any of the children named until the plaintiffs, in October, 1970, informed the defendants that they were in the process of instituting legal action to enforce their rights to a public education, pursuant to the laws of the state of California and the Constitution of the United States. The children named in the second class were placed in special education programs, but as indicated, not a program designed specifically to meet their needs.

Lori Case, et. al. v. State of California, Department of Education, et. al., Civil Action Number 101679. The plaintiffs sought an immediate temporary restraining order and a preliminary and permanent injunction restraining defendants from preventing, prohibiting, or in any manner interfering with Lori's education at Riverside. A temporary restraining order and a perliminary injunction were granted by the Superior Court of the State of California for the County of Riverside. The case was filed on January 7, 1972, and a temporary restraining order was granted the same day. A preliminary injunction was granted on January 28, 1972. Plaintiffs' first set of interrogatories were filed on March 10, 1972, and a trial date set for May 8, 1972. The trial has been continued until September 5, 1972.

Association for Mentally Ill Children (AMIC), Lori Barnett, et. al. v. Milton Greenblatt, Joseph Lee, et. al., Civil Action Number 71-3074-J. This class action suit is being brought by emotionally disturbed children against officers of the Boston school system, all other officers in school districts throughout the state, and the Massachusetts state departments of education and mental health for the alleged arbitrary and irrational manner in which emotionally disturbed children are denied the right to an education by being classified emotionally disturbed and excluded both from the public schools and an alternative education program. The suit specifically charges that as of July 1971, a minimum of 1,371 emotionally disturbed children, determined by the Commonwealth as eligible for participation in appropriate educational programs, were denied such services. The case is pending the United States District Court for the District of Massachusetts.

North Carolina Association for Retarded Children, Inc., James Auten Moore, et. al. v. The State of North Carolina, Department of Public Education, State Board of Education, Superintendent of Public Instruction, et. al. On May 18, 1972, a suit was introduced in the Raleigh Division of the Eastern District Court of North Carolina by the North Carolina Association for Retarded Children, Inc. and thirteen mentally retarded children against the state of North Carolina, various state agencies and their department heads, a city school district, and a county school district for failure to provide free public education for all of the state's estimated 75,000 mentally retarded children. Plaintiff children who had been receiving a public education were excluded because of alleged lack of facilities or failure of the children to meet certain behavioral criteria such as toilet training. In summary, the suit is being brought on behalf of residents of North Carolina, six years of age and over, who are eligible for free public education but who have by the defendants (1) been excluded, or (2) been excused from attendance at public schools, or (3) had their admission postponed, or (4) otherwise have been refused free access to public education or training commensurate with their capabilities because they are retarded.

Benjamin Harrison, The Coalition for the Civil Rights of Handicapped Persons, et. al. v. State of Michigan, et. al. Civil Action Number 38357. On May 25, 1972, the Coalition for the Civil Rights of Handicapped Persons, a non-profit corporation formed to advance the rights of handicapped children, and twelve handicapped children filed suit in the Southern Division of the United States District Court for the Eastern District of Michigan against the state of Michigan, the department of education, the department of mental health, the Detroit school board and officers, and the Wayne County intermediate school district and its officers for their failure to provide a publicly supported education for all handicapped children of Michigan. The complaint argues that the right of these children to an education is based on Michigan law stating that the legislature shall maintain and support a system of free public elementary and secondary schools as defined by law. Further, Article VIII, Section 8 of the Michigan Constitution indicates that the state shall foster and support institutions, programs, and services for the care, treatment, education, or rehabilitation of those inhabitants who are physically, mentally, or otherwise seriously handicapped. Of importance in this suit is that recognition is given in the complaint to a mandatory special education law effective July 1, 1972. However, since that law will not be fully implemented until the 1973-74 school year, the plaintiffs are presently being denied rights. In addition, it is pointed out that the mandatory act does not provide for compensatory education or the right to hearing and review as the educational status and/or classification of the children is altered.[7]

SUMMING UP 1972

A survey of the states legislative activity in 1972, relative to equal educational opportunity revealed that the states of Arkansas, Maine, and Oregon developed resolutions to study and make recommendations to the 1973 legislature to amend statutory provisions impeding educational programs of the handicapped. The state of Idaho (Senate Joint Resolution #124) proposed an amendment to the Idaho Constitution relating to compulsory school attendance that was presented to the electorate and approved during the November 7, 1972 general elections. The state of New Mexico enacted S.B. 17 which amended provisions in their compulsory school attendance law. The state of Missouri introduced legislation (H.B. 549) to amend provisions relative to compulsory school attendance laws; however, it was not enacted. States that introduced legislation pertaining to state policy statements in 1972 were: New York, Act 9040, a declaration of state policy regarding the right of handicapped children to equal educational opportunities (not enacted); Hawaii introduced House Resolution #304 requesting the State Department of Education to prepare a formal policy statement and compatible plan regarding the state's roles and responsibilities in providing educational services to handicapped children in Hawaii. (H.R. #304 was not enacted).

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7. Abeson, A Continuing Summary of Pending and Completed Litigation Regarding the Education of Handicapped Children, p. 11.

I. LEGISLATION ENACTED IN 1972

STATE	LEGISLATION (Text in Full)
ARKANSAS	Proposal #54. WHEREAS, a regional workshop on the education of the handicapped, recently held in Atlanta, Georgia under the sponsorship of the Education Commission of the States, called attention to a September, 1971 decision of the U.S. District Court in the Eastern District of Pennsylvania, which held that mentally retarded and other handicapped children who are denied equal opportunities for free public education and training are denied equal protection under the laws, as guaranteed by the Fourteenth Amendment of the United States Constitution; and WHEREAS, the Constitution of the State of Arkansas mandates that the State establish a free system of public instruction; and WHEREAS, most of the public schools of this State make no provision for education or training opportunities for mentally retarded or other handicapped children, and the compulsory school attendance law of this State specifically provides for the exemption of handicapped children from the requirements of the compulsory school attendance law; and WHEREAS, unless the State of Arkansas provides educational and training opportunities for mentally retarded and other handicapped children, either through the public schools or other educational or training programs, the State may be in jeopardy of complying with the due process and equal protection of the law's requirements under the Fourteenth Amendment of the United States Constitution, as declared in the recent decision of the United States District Court in Pennsylvania; and WHEREAS, an immediate study of the State's program for the education and training of handicapped persons, and an evaluation of the adequacy thereof, is essential in order that the 1973 General Assembly may be advised of any deficiencies in the State's program of education for the handicapped, and of the anticipated cost of providing educational and training opportunities for the handicapped, which are mandated by United States constitutional requirements; NOW THEREFORE, Be it Proposed by the Legislative Council of the State of Arkansas: That the Legislative Council shall make a study of the State's constitutional requirements pertaining to public education, and compulsory school attendance law, and other statutory requirements and programs for the education and training of mentally retarded and other handicapped individuals in Arkansas, for the purpose of determining whether the State is currently meeting its educational and training obligations to the handicapped, as required by the equal protection clause of the Fourteenth Amendment of the United States Constitution. Such study shall determine the adequacy of existing educational and training programs for the handicapped, and shall include findings with respect to new or added programs that will be required to meet constitutional standards, and estimated cost thereof. The State Board of Education and other interested groups are requested to cooperate with the Legislative Council in this study.
SOURCE State Legislative Council	

STATE	LEGISLATION (Text in Full)
IDAHO	Senate Joint Resolution #124. A joint resolution proposing an amendment to Section 9, Article IX of the Idaho Constitution, relating to compulsory attendance at schools, by providing that the legislature may require by law that every child shall attend a public school of the state unless educated by other means as provided by law; submitting the question to the electorate; directing the Attorney General to prepare the statement of such amendment as provided by law; and directing the Secretary of State to publish notice thereof. Be it resolved by the Legislature of the State of Idaho: Section 1. That Section 9, Article IX, of the Constitution of the state of Idaho be amended to read as follows: Section 9. Compulsory Attendance at Schools - The legislature may require by law that every child ~~of sufficient mental and physical ability~~ shall attend the public schools of the state, throughout the period between the ages of six and eighteen years, ~~for a time equivalent to three years~~, unless educated by other means, as provided by law. Section 2. The question to be submitted to the electors of the state of Idaho at the next general election shall be as follows: "Shall Section 9, Article IX, of the Constitution of the state of Idaho relating to compulsory attendance at schools be amended to provide that the legislature may require that every child shall attend a public school of the state unless educated by other means as provided by law?" Section 3. The Attorney General is directed to prepare the statement required by Section 67-507a, Idaho Code, and file the same. Section 4. The Secretary of State is hereby directed to publish this proposed constitutional amendment for six consecutive weeks prior to the next general election, in one newspaper of general circulation published in each county of the state of Idaho.
SOURCE	
State Legislative Council	

STATE	LEGISLATION (Text in Full)
MAINE	Joint Resolution in Support of Education for Handicapped Children. WHEREAS, the State of Maine is currently serving the educational needs of a minority of its handicapped children; and WHEREAS, education and remediation at an early age is demonstrably less costly than corrective rehabilitative efforts at a later date; and WHEREAS, public policy should dictate that our public schools move promptly to comply with the requirements of recent court decisions covering the rights of the handicapped child to the benefits of education; now, therefore, be it RESOLVED: That the 105th Legislature does hereby publish and declare it to be the public policy of this State that no school-age child be denied the benefits of appropriate education because of physical, mental, or emotional handicaps, as defined by the Bureau of Education for the Handicapped in the United States Office of Education and the Maine Department of Education; and be it further RESOLVED: That the Commissioner of the Maine Department of Education is respectfully directed to develop proposals for consideration by the 106th Legislature relative to the amendment of Title 20, which will permit the full realization and implementation of this goal no later than July 1, 1975; and be it further RESOLVED: That all state departments are requested to give full assistance to the Commissioner of Education as requested in the development of his proposals, and be it further RESOLVED: That a copy of this Resolution be transmitted forthwith to said Commissioner of Education as notice of th intent expressed herein.
SOURCE	
State Department of Education	

STATE	LEGISLATION (Text in Full)
NEW MEXICO	S.B. 17. An Act relating to education; amending the compulsory school attendance law section 77-10-2 NMSA 1953 (Being Laws 1967, Chapter 16, Section 170, as amended). Be it enacted by the Legislature of the State of New Mexico: Section 1. Section 77-10-2 NMSA 1953 (Being Laws 1967, Chapter 16, Section 170, as amended) is amended to read: 77-10-2. Compulsory School Attendance - Responsibility. (A) Any person attaining six years of age prior to ~~January~~ September 1 of a school year and until attaining seventeen years of age shall attend a public school, a private school maintaining courses of instruction approved by the state board, or a ~~school~~ program of instruction offered by a state institution, unless: (1) the person is specifically exempted by law from the provisions of this section; (2) the person has graduated from a high school approved by the department of education; ~~(3) the person is physically incapable of attending or mentally incompetent to attend public school, or (4) the person is excused from the provisions of this section by the superintendent of schools of the school district in which the person is a resident, and such person is under nine years of age.~~ (3) the person is a high school student and has passed the general educational development test; (4) the person is a high school student and can prove to the local school board that he is not personally benefiting from a high school program or has a justifiable reason for not attending school; (5) the person is a high school student and can prove to the local school board that he has a plan for pursuing educational interests that the school is not satisfying; or (6) the person is judged, based on standards and procedures adopted by the state board of education, to be unable to benefit from instruction because of mental, physical or emotional conditions. (B) A person subject to the provisions of the Compulsory School Attendance Law shall attend school for at least the length of time of the school year that is established in the school district in which the person is a resident.
SOURCE State Legislative Council	

STATE	LEGISLATION (Text in Full)
OREGON	The superintendent recommends adoption of the following resolution to repeal ORS 339.310 to 339.360 and reference to this act in ORS 343.075(2): WHEREAS, the State Board of Education has approved the recommendations contained in the Education Commission for the States delegates' report at its January 17, 1972, meeting recommending that the Director of Special Education prepare a resolution for repeal of the Exclusion Act for the February State Board meeting; WHEREAS, the State recognizes the importance of public school programs for mentally retarded children by providing state funds to support such programs; WHEREAS, the constitutionality of the Exclusion Act has been challenged by attorneys in Oregon hired by parents whose children have been threatened with exclusion from school under this act; WHEREAS, the essential elements of ORS 339.310 to 339.360 are included under ORS 339.030; WHEREAS, since 1958 no administrative head of a school district has submitted evidence to the Superintendent of Public Instruction substantiating a request for exclusion as required by the act; WHEREAS, a three-judge federal panel in Philadelphia, Pennsylvania, ruled that all retarded persons between the ages of 6 and 21 are entitled "to a free public program of education and training appropriate to their learning capacity"; WHEREAS, ORS 339.310 to 339.360 has been reviewed by the Oregon Board of Education and has been found to deny mentally retarded pupils the opportunity of a public education by permanently excluding them from the schools of their resident school district: Therefore be it
SOURCE State Department of Education	

STATE	LEGISLATION
OREGON	RESOLVED, that the Oregon Board of Education go on record to repeal ORS 339.310 to 339.360 and the following sentence in ORS 343.075(2) ~~For children enrolled in special instructional facilities, as defined in ORS 343.410, this determination shall be made in the manner provided in ORS 339.310 to 339.360~~, in the 1973 Legislative Assembly.

II. LEGISLATION INTRODUCED BUT NOT ENACTED IN 1972

STATE	LEGISLATION (Text in Full)
HAWAII	House Resolution requesting the Department of Education to prepare a formal policy statement and a compatible plan regarding the state's role and responsibilities in providing educational services to handicapped children in Hawaii. WHEREAS, as revealed in the Legislative Reference Bureau's report, Special Education in Hawaii, Part II, the State is not providing educational services to all school age handicapped children at the present time; and WHEREAS, the State, through the Department of Education, has the alternatives of providing all required educational services to all school age handicapped children in Hawaii or of providing some of the required educational services to children of certain school age groups and with certain types of handicaps, and WHEREAS, the report also indicates that if the State is committed to providing all required educational services to all school age children in Hawaii, an approximate 115 per cent increase in the amount of services provided would be required immediately; and WHEREAS, because it would be impractical to plan for an immediate attainment of a 100 per cent service level of educational services to handicapped children, the development of a multi-year plan by the Department of Education with interim steps to reach the final goal of full services would be more realistic and workable; now, therefore, BE IT RESOLVED by the House of Representatives of the Sixth Legislature of the State of Hawaii, Regular Session of 1972, that the Department of Education be requested to prepare a formal policy statement and a compatible plan regarding the State's role and responsibilities in providing educational services to the handicapped children in Hawaii and to include, but not be limited to: (1) Identification of the target groups - the total number of handicapped children served, including estimates of present and future growth of the target group and the methods used in arriving at these estimates, and the types and severity of handicaps of the target group to be provided for; (2) Development of a program - including program objectives, program structure, program size, program element, program sub-element, and measures of program effectiveness; and (3) Estimate of accurate costs of special education personnel - the Office of Business Services of the Department of Education to conduct a detailed cost analysis of special education by type of handicap served, type of programming, and support function outside the program in order to determine the level of educational services provided handicapped children; and BE IT FURTHER RESOLVED that the Department of Education submit the formal policy statement and compatible plan regarding the State's role and responsibilities in providing educational services to handicapped children in Hawaii twenty days prior to the convening of the Regular Session of 1973; and BE IT FURTHER RESOLVED that certified copies of this Resolution be transmitted to the Chairman of the Board of Education and the Superintendent of Education.

SOURCE

State Legislative Council

STATE	LEGISLATION (Text in Full)
MISSOURI	H.B. 549. An Act to repeal section 167.041, RSMo 1969, relating to school attendance and to enact in lieu thereof one new section relating to the same subject. Be it enacted by the General Assembly of the State of Missouri, as follows: Section 1. Section 167.041, RSMo 1969, is repealed and one new section enacted in lieu thereof, to be known as section 167.041, to read as follows: 167.041.
SOURCE State Department of Education	Section 167.031 applies to blind and deaf children, to trainable mentally retarded children, and also to educable mentally retarded and crippled children where special classes are provided for them as directed in sections 178.260, 178.270 or 178.640 to 178.760, RSMo. If instruction is provided at home it must be substantially equivalent at least to the instruction given the children of like development in the special classes or in the state schools for the blind and the deaf.

STATE	LEGISLATION (Text in Full)
NEW YORK	Act #9040. An Act to amend the education law, in relation to the education of handicapped children and repealing certain provisions relating thereto. The people of the State of New York, represented in Senate and Assembly, do enact as follows: Section 1. Section 4402 of the education law is hereby repealed and a new section 4402 inserted therein, in lieu thereof, to read as follows: 4402. Right to an Education. (1) It is the policy of this state to provide, and to require school districts to provide, as an integral part of free public education, special education sufficient to meet the needs and maximize the capabilities of handicapped children. This section applies to all handicapped children regardless of the schools, institutions, or programs by which such children are served. (2) The state education department shall provide or cause to be provided by school districts all regular and special educational services required by handicapped children to the end that they shall receive the benefits of a free public education appropriate to their needs. The state education department shall have the power and it shall be its duty to maintain a statistical summary of the number of handicapped children within the state and the nature of their handicaps; and it shall be its duty to stimulate and supervise all private and public efforts designed to relieve, care for, cure or educate handicapped children and to coordinate such efforts with the work and function of governmental agencies. (3) The commissioner of education shall formulate such rules and regulations pertaining to the physical and educational needs of such children as he shall deem to be in their best interests. (4) To the maximum extent practicable, handicapped children shall be educated along with children who do not have handicaps and shall attend regular classes. Impediments to learning and to the normal functioning of handicapped children in the regular school environment shall be overcome by the provision of special aids and services, rather than by separate schooling for the handicapped. Special classes, spearate schooling or other removal of handicapped children from the regular educational environment, shall occur only when and to the extent that the nature or severity of the handicap is such that education in regular classes, even with the use of supplementary aids and services, cannot be accomplished satisfactorily.
SOURCE State Legislative Council	

STATE	LEGISLATION (Text in Full)
NEW YORK	Memorandum in Support of Act #9040. Purpose of Bill. A clear and explicit declaration of State policy regarding the right of handicapped children to equal educatonal opportunity is needed. This bill is intended to be a declaration of state policy in this regard. The bill also establishes that, ideally, handicapped children should be educated in a normal classroom environment. It recognizes, however, that special schooling may be necessary because of the nature or severity of the handicap. Summary of Provisions. This bill repeals section 4402 of the Education Law and adds a new section 4402 to include: (1) a declaration of state policy regarding handicapped children's right to an education; (2) duties and powers of the State Education Department concerning the education of handicapped children; (3) duties of the commissioner of education; (4) the ideal of regular classroom education for handicapped children. Justification. Historically public education for handicapped children has been perceived by many as a charitable contribution of government. Today there is a definite movement by all branches of government to extend educational opportunity equitably to all handicapped children. One of the major goals of the U.S. Office of Education calls for adequate educational programs for every handicapped child by 1980. Although the Constitution of New York State is explicit regarding the education of "all the children of this state" (Sec. 1, NY Const.) and although the State's Education Law implies the provision of equal educational services to handicapped children, there is no explicit statement of State policy recognizing the right of handicapped children to the same degree of educational opportunity as other children. The intent of this legislation is to fill the need for a clear and explicit declaration of the State's policy with regard to the right of handicapped children to equal education. Section 4402 of the Education Law treats the duties of the State Education Department with regard to the education of handicapped children. Since the duties of the Department derive from the right of handicapped children to public education, this section is the best place in the law for a declaration of state policy in this regard. Prior Legislative History. None.

SECTION II. MANDATORY LEGISLATION

The earliest form of mandatory legislation passed was in New Jersey (1911), New York (1917), and Massachusetts (1920) which directed local education agencies to determine the numbers of handicapped children in their jurisdiction. The legislation states that where there were ten or more mentally retarded children, special classes must be provided. As of 1971, seven states had adopted full mandatory legislation. This is in addition to the twenty-six states already having some form of mandatory legislation.[8] In 1972, ten additional states enacted some type of mandatory legislation bringing the total to forty-three states with some form of mandatory legislation.

Weintraub and Abeson (1971) examined the relationship between mandatory legislation and the development of programs for handicapped children, concluded that if mandatory legislation is to effectively stimulate programs, the following elements are essential:

... Planning for Program Development. Until recently mandatory laws frequently called for instant implementation; of major concern is the quality of the hastily established efforts.
... Mandatory Laws should allow for Recruitment and Training of Pre and In-service Personnel. Financial assistance should be made available for scholarships and loans for the preparation of special personnel. Consideration of staffing should include support personnel.
... Provision for appropriate physical facilities must be included within the laws.
... Inter-district of Multiple District Programming. Often it is necessary to expand local education agency boundaries to obtain a sufficient number of handicapped children to offer an effective program. The law should also allow for provisions for transportation of children in such arrangements.
... Finance and Availability of Funds. The state must be prepared to finance all necessary additional costs.
... Elimination of Exclusion Clauses. Since the very purpose of mandatory legislation is to increase opportunities for the handicapped, exclusion clauses in the compulsory attendance laws should be eliminated.

Weintraub and Abeson (1971) further suggested that effective enforcement procedures should contain at least the following:

... A review process by a state policy making body which reports annually to the legislature on the status of special education programs.
... A mechanism for the state to evaluate both the planning and implementation at the local level.
... Technical resources provided by state to local agencies.
... Provisions for the state to take over or designate an agency to assume the responsibility for the special education programs in derelict local agencies.[9]

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8. Weintraub, p. 41.
9. Alan Abeson and Frederick J. Weintraub, "State Law for the Handicapped - Essential Ingredients," Compact, V (August 1971), 20-22.

STATES WITH SOME FORM OF MANDATORY LEGISLATION			STATES WITH PERMISSIVE LEGISLATION
Alabama	Kentucky	Oklahoma	Arizona
Alaska	Louisiana	Oregon	Maine
Arkansas	*Maryland	Pennsylvania	Mississippi
California	*Massachusetts	Rhode Island	North Carolina
*Colorado	*Michigan	*South Carolina	North Dakota
Connecticut	Minnesota	*South Dakota	Vermont
Delaware	Missouri	*Tennessee	Wisconsin
Florida	Montana	Texas	
Georgia	Nebraska	Utah	
Hawaii	Nevada	*Virginia	
*Idaho	New Hampshire	Washington	
Illinois	New Jersey	West Virginia	
Indiana	*New Mexico	Wyoming	
Iowa	New York		
Kansas	Ohio		

* States with new or amended mandatory bills enacted during the 1972 legislative sessions.

I. LEGISLATION ENACTED IN 1972

STATE	LEGISLATION (Text in Full, Section 2)
COLORADO SOURCE State Department of Education	H.B. 1060, Section 2. 123-22-8 (1), (3), and (4), Colorado Revised Statutes 1963, as amended by section 1 of chapter 299, Session Laws of Colorado 1971, is amended to read: 123-22-8. Establishment of special education programs. (1) The board of education of each school district may until July 1, 1976, and shall thereafter make available a special educational program for the education of any physically, educable mentally, educationally, or speech handicapped child who is a resident of the school district. To comply with this section, each school district may establish and maintain such special educational programs as may be needed; or two or more school districts may contract with each other to establish and maintain special educational programs pursuant to law for the education of handicapped children, sharing the costs thereof in accordance with the terms of the contract agreed upon; or if fewer than six children needing a particular kind of special educational program are residents of a school district, the board of education of such school districts may purchase services from another school district where an appropriate special educational program exists. (3) Every school district, separately or in combination with other school districts or board of cooperative services, shall submit to the state board not later than January 1, 1974, a comprehensive plan for compliance with this section. (4) If any school district shall fail to submit an acceptable plan by ~~July 1, 1973~~, January 1, 1974, then it shall be the duty of the state board to devise and recommend prior to ~~January 1, 1974~~, July 1, 1974, a comprehensive plan for the education of handicapped children within such district.

STATE	LEGISLATION (Text in Full)
IDAHO	H.B. 754. An Act amending section 33-2001, Idaho Code, relating to responsibility of school districts for education of exceptional children, by providing that each public school district shall provide for the education and training of exceptional pupils, by providing that special instruction need not be within the various school districts of the state. Be it enacted by the Legislature of the State of Idaho: Section 1. That Section 33-2001, Idaho Code, be, and the same is hereby amended to read as follows: 33-2001. Responsibility of school districts for education of exceptional children. Each public school district is responsible for and shall provide for the education and training of exceptional pupils resident therein. Every public school district in the state may provide instruction and training for persons to the age of twenty-one (21) years who are exceptional children as defined in this act and by the state board of education. The state board of education shall determine eligibility criteria for the exceptional children, qualifications of special teachers and special personnel, programs of instruction and minimum standards for classrooms and equipment to be used in administering the provisions of this act.

STATE	LEGISLATION (Partial Text, Chapter 71B, Section 2)
MASSACHUSETTS	H.B. 6184, Chapter 71B, Children with Special Needs, Section 2. Children receiving or requiring special education shall be entitled, in accordance with the regulations of the department of education promulgated in cooperation with the departments of mental health, public health and welfare, to participate in any of the following programs: (1) additional direct or indirect instruction consultation service, materials, equipment or aid provided children or their regular classroom teachers which accrues to the direct benefit of children requiring special education; (2) supplementary individual or small group instruction or treatment in conjunction with a regular classroom program; (3) integrated programs in which children are assigned to special resource classrooms but attend regular classes to the extent that they are able to function therein; (4) full-time special class teaching or treatment in a regular school building; (5) teaching or treatment at home; (6) full-time teaching or treatment in a special day school or other day facility; (7) teaching or treatment at a hospital; (8) teaching or treatment at a short or long term residential school; (9) occupational and pre-occupational training in conjunction with the regular occupational training program in the public school; (10) full-time special class teaching in a public school building, at home, special day school or other day facility, hospital, or short or long-term residential school; (11) any combination or modification of programs (1) through (10) or other programs, services, treatments or experimental provisions which obtain the prior approval of the department.
SOURCE	
State Department of Education	
State Legislative Council	

STATE	LEGISLATION (Partial Text, Section 252b)
MICHIGAN	Public Act #198, Section 252b. (1) For the 1973-74 school year and thereafter the state board of education shall: (a) Develop, establish and continually evaluate and modify in cooperation with intermediate school districts, a state plan for special education which shall provide for the delivery of special education programs and services designed to develop the maximum potential of every handicapped person. The plan shall coordinate all special education programs and services. (b) Require each intermediate school district to submit a plan pursuant to subdivision (a) of section 298c, in accordance with the state plan and approve the same. (c) Promulgate rules setting forth the requirements of the plans and the procedures for submitting them. (d) A preliminary state plan shall be submitted to the legislature on or before July 1, 1972. (e) The final state plan shall be submitted to the legislature on or before March 1, 1973, including recommendations for funding special education programs and services. (2) For the 1973-74 school year and thereafter, if a local school district claims the existence of an emergency, due to extreme financial conditions because of insufficient operating funds or due to a severe classroom shortage and which emergency the local district claims renders it unable to provide special education programs and services in compliance with section 771a, it shall apply, in writing, to the state board no later than July 1 of the particular school year for approval to provide special education programs or services which do not comply with section 771a. (3) In its application the local school district shall demonstrate the need to provide noncomplying special education programs and services and shall include the proposed programs and services it can provide and the efforts to be undertaken to alleviate the emergency. If the state board finds an emergency exists in the local school district for such school year, the state board may approve the providing of noncomplying special education programs or services and prescribe conditions therefor. The state board may extend the filing date for good cause. (4) If the state board determines a local school district is not providing special education programs and services in compliance with section 771a, and the local school district has not obtained prior approval from the state board, the state board shall notify the local school district, in writing, of the noncompliance. Unless the local school district submits proof of compliance, or of an unforeseen emergency, within 30 days after receipt of the notice, the state board shall direct the intermediate district of which the local school district is a constituent to provide complying programs or services. The state board shall direct the intermediate district to provide only those programs or services which the state board determined are not in compliance with section 771a.
SOURCE State Legislative Council	

STATE	LEGISLATION (Text in Full, Sections 1 & 3)
NEW MEXICO	S.B. 14, Chapter 95. Be it enacted by the Legislature of the State of New Mexico: Section 1. Section 77-11-3 NMSA 1953 (being Laws 1969, Chapter 256, Section 1) is repealed and a new Section 77-11-3 NMSA 1953 is enacted to read: 77-11-3. Special Education for Exceptional Children. The state shall require school districts over a five year period to provide special education sufficient to meet the needs of all exceptional children. Each district shall meet the educational needs of at least one-fifth of its eligible exceptional children during the sixty-first fiscal year, of at least two-fifths of such children during the sixty-second fiscal year, three-fifths during the sixty-third fiscal year, and four-fifths during the sixty-fourth fiscal year. Regulations and standards shall be developed and established by the state board of education for the conduct of special education in the schools and classes of the public school system in the state and in all institutions wholly or partly supported by the state. Section 3. Section 77-11-3.2 NMSA 1953 (being Laws 1971, Chapter 109, Section 1) is repealed and a new Section 77-11-3.2 is enacted to read: 77-11-3.2. Special Education - Responsibility. A) The state board of education shall make, adopt and keep current a state plan for special education policy, programs and standards. B) The department of education, with approval of the state board of education, shall set standards for diagnosis and screening, and educational offerings for exceptional children. C) All educational programs for exceptional children must have approval from the state superintendent prior to any distribution of state bunds by the chief.
SOURCE	
State Department of Education	
State Legislative Council	

STATE	LEGISLATION (Text in Full, Sections 1, 2, 8)
SOUTH CAROLINA	Act #977. An Act to establish a mandatory program for education of handicapped children in the public schools. Be it enacted by the General Assembly of the State of South Carolina: Section 1. The General Assembly finds that it is necessary and proper to provide an appropriate education for all handicapped children and youth enrolled in public schools or eligible for enrollment therein. It further finds that this purpose can best be accomplished through implementation of an intensive five-year plan to expand and improve existing programs for exceptional children in the public schools. The purpose of this Act is to provide for the mandatory establishment of educational and training services and facilities for handicapped children in the public schools, between the ages designated in Section 21-752 of the 1962 Code, who cannot be trained adequately without special educational facilities and services. Section 2. The State Board of Education shall establish a program of specialized education for all handicapped children in this state utilizing the personnel and facilities of, and administered by, the State Department of Education under the direction of the State Superintendent of Education and shall further prescribe standards and approve the procedures under which the facilities are furnished and services provided. The board shall establish screening, evaluating and placement procedures for handicapped students who will participate in the programs established under this Act and shall determine certification requirements for teachers, minimum room size standards and standards for other equipment and materials used in such programs.
SOURCE	
State Department of Education	

STATE	LEGISLATION
SOUTH CAROLINA	To carry out the provisions of this Act the board may promulgate such rules and regulations, not inconsistent with law as it shall deem necessary and proper. Section 8. This Act shall take effect upon approval by the Governor. Approved the 14th day of February, 1972.

STATE	LEGISLATION (Text in Full)
SOUTH DAKOTA	S.B. 108. For an Act entitled, An Act to amend SDCL 13-37 by adding a new section thereto relating to placement and education of an exceptional child. Be it enacted by the Legislature of the State of South Dakota: That SDCL 13-37 be amended by the addition thereto of a new section to read as follows: It shall be the responsibility of the governing board of a school district to provide all of its resident exceptional children with an appropriate educational program. The placement of an exceptional child with the approval of the department into an appropriate education program in cases where it is unreasonable for the resident school district to provide the program shall constitute the provision of an appropriate educational program for that exceptional child.
SOURCE	
State Legislative Council	

STATE	LEGISLATION (Text in Full, Sections 1, 2A, Introduction)
TENNESSEE	H.B. 2053, Chapter 839. Be it enacted by the General Assembly of the State of Tennessee: Section 1. It is the policy of this state to provide, and to require school districts to provide, as an integral part of free public education, special education services sufficient to meet the needs and maximize the capabilities of handicapped children. The timely implementation of this policy to the end that all handicapped children actually receive the special education services necessary to their proper development is declared to be an integral part of the policy of this state. This section applies to all handicapped children regardless of the schools, institutions or programs by which such children are served. Section 2. The State Board of Education shall provide or cause to be provided by school districts all regular and special education, corrective and supporting services required by handicapped children to the end that they shall receive the benefits of a free public education appropriate to their needs. It shall be within the jurisdiction of the Commissioner of Education to organize and to supervise schools and classes according to the regulations and standards established for the conduct of schools and classes of the public school system in the state in all institutions wholly or partly supported by the state which arenot supervised by public school authorities. Schools and classes so established in wholly state owned institutions, shall be financed by the Department of Education. An Act for the general purpose of providing education for the handicapped, wherein there is created a division for the education of the handicapped within the Department of Education, an advisory council for the education of the handicapped, a special
SOURCE	
State Department of Education	

STATE	LEGISLATION
TENNESSEE	education services association, requirements for the Commissioner of Education in making plans for the implementation of special education, and a requirement for a three-phase incremental program, a special education materials and training unit, including procedures for placing a child within a special education program; provisions for training of special education personnel, requirements for special education facilities, and provisions for financial aid; to provide for other necessary administrative procedures; and to repeal Tennessee Code annotated, Sections 49-2901 and 49-2902.

STATE	LEGISLATION (Partial Text, Section 1)
VIRGINIA	S.B. 143. Be it enacted by the General Assembly of Virginia: That Sections 22-9.1, 22-9.1:4 and 22-9.2:1, as amended, be amended and reenacted and that the Code of Virginia be further amended by adding sections numbered 22-9.1:01 through 22-9.1:06 as follows: 22-9.1. Special education for handicapped children. The Board of Education shall prepare and place in operation a program of special education designed to educate and train handicapped children between the ages of two and twenty-one years and may prepare and place in operation such program for such individuals of other ages. In the development of such program, the Board of Education shall assist and cooperate with local school boards in the several school divisions. The Board of Education shall adopt such rules and regulations as may be necessary to secure adequate special education for handicapped individuals. In the development of such program, the Board shall cooperate with the Commission for the Visually Handicapped.
SOURCE	(Partial Text)
State Legislative Council	H.B. 770. Be it enacted by the General Assembly of Virginia: 1) That Section 22-9, as amended, of the Code of Virginia be amended and reenacted as follows: 22-9. Visually impaired children. (a) The Virginia Commission for the Visually Handicapped shall prepare and place in operation a program of special education services designed to meet the educational needs of visually impaired children between the ages of birth and twenty-one and may prepare and place into operation such programs for such individuals of other ages. In the development of such a program, the Virginia Commission for the Visually Handicapped shall cooperate with the State Board of Education and local school boards in the several school divisions. (b) When visually impaired children are enrolled in a county or city school division, the local school authorities, in cooperation with the Virginia Commission for the Visually Handicapped, shall establish and maintain special programs for their education in the public schools. All such special programs for visually impaired children shall be operated jointly by the local school board and the Virginia Commission for the Visually Handicapped.

II. LEGISLATION INTRODUCED BUT NOT ENACTED IN 1972

STATE	LEGISLATION (Text in Full, Section 1)
ARIZONA	S.B. 1149. Relating to education; requiring each school district to provide or obtain special education for its pupils, and amending sections 15-1012 and 15-1015, Arizona Revised Statutes. Be it enacted by the Legislature of the State of Arizona: Section 1. Purpose. The legislature intends by this act to provide equal educational opportunities to all exceptional children in this state without regard to the location or size of the community in which they reside. (Partial Text, Section 1) H.B. 2155. Relating to education; requiring school districts with average daily attendance of three thousand or more to provide special education, and amending section 15-1015, Arizona Revised Statutes. Be it enacted by the Legislature of the State of Arizona: Section 1. Section 15-1015, Arizona Revised Statutes, is amended to read: 15-1015. Powers of the governing body of a school district or county. The governing body of any school district with an average daily attendance of less than three thousand pupils may and the governing body of any school district with an average daily attendance of three thousand or more pupils shall: (1) Establish special education programs for the education of exceptional children, and (2) Employ certified special personnel including a director of special education for the operation of special school programs for exceptional children.

STATE	LEGISLATION (Partial Text, Section 1)
MISSISSIPPI	H.B. 362. An Act to amend section 6631-06, Mississippi Code of 1942, to provide for a procedure for establishing classes for exceptional children; and for related purposes. Be it enacted by the Legislature of the State of Mississippi: Section 1. Section 6631-06, Mississippi Code of 1942, is amended to read as follows: 6631-06. In any school district where properly interested persons, or agencies, or the parents, or guardians of five (5) or more of any one (1) type of exceptional children, or of types which may be taught together, petition the board of trustees of the district for a special class or classes, the school authority will request, within thirty (30) days of the date of the filing of said petition with said board, the State Department of Education to cooperate in securing a screening team, approved by the State Department of Education, to diagnose and evaluate the exceptional children referred to the school authority by the petitioner, parents or guardians, district school personnel, governmental and nongovernmental agencies which serve the same area as the school district.

STATE	LEGISLATION (Partial Text)
MARYLAND	S.B. 927, Section 1. Be it enacted by the General Assembly of Maryland, that new Article 77B be and it is hereby added to the annotated code of Maryland (1969 Replacement Volume and 1971 Supplement), to follow immediately after Article 77A thereof and to be under the new title "Education of Handicapped Children," and to repeal and re-enact, with amendments, and to transfer to Article 77B and renumber Sections 99 through 106 of Article 77 of the Code (1969 Replacement Volume and 1971 Supplement), title "Public Education," subtitle "Chapter 7. Handicapped Children," and all to read as follows: Article 77B, Education of Handicapped Children, General Provisions and Programs of Instruction. (1) (a) The State Board of Education shall provide such special programs of education, corrective and related services as may be appropriate to enable all children of the following classes to meet the requirements of this Act: 1) Children who are unable to benefit sufficiently from the regular programs of instruction by reason of their mental, physical, emotional or learning problems. 2) Children whose degree or kind of disability or illness precludes attendance in a regular school setting. (b) A child shall be deemed to be of the type described in subsection (a) hereof only upon certification pursuant to rules and regulations of the State Department of Education that he is suffering from physical or mental illness or disease of such severity as to make his presence in a school facility or his travel to and from such facility impossible or dangerous to his health or the health of others. for such children, home, hospital, institutional or other regularly scheduled and suitable instruction meeting standards of the State Department of Education shall be provided by the public schools.
SOURCE	
State Department of Education	
State Legislative Council	

SECTION III. STATEWIDE PLANNING AND ADVISORY COUNCILS
A. Planning

Careful planning is required to assure that appropriate educational services are available to handicapped children when they need them. As educational programs for handicapped children increase, the states are frequently faced with the problem of how they can with limited resources, effectively plan to meet the needs of handicapped children.

Weintraub (1971) has noted that weaknesses in many states' planning efforts are due to:

... Vague generalities necessitating additional planning for implementation.
... Statements calling for resources or changes beyond the ability of the state to produce.

Effective state planning efforts and technical assistance have tended to:

... Aid in conveying the needs of the handicapped to governmental policy makers and the public, which resulted in fostering more positive public attitudes and governmental action.
... Reverse many negative attitudes of local school authorities, when practical and realistic.

It is further noted that effective planning might include the following elements:

1. a census
2. provisions for diagnosis and screening
3. inventory of personnel and facilities
4. distribution of responsibilities
5. criteria for education of handicapped children
6. program standards
7. program for recruiting and training personnel
8. program for the development of facilities.[10]

A similar planning procedure is outlined for local school districts detailing the extent to which the district is providing required services and what steps it plans to take for full implementation. Children being furnished an education in state facilities remain a planning responsibility of their school district of residence.[11]

While all states have done some planning for the education of handicapped children, in 1971 only 20 percent of the states had some planning provisions in their laws. At the close of the 1972 legislative sessions across the United States, additional states enacted provisions in their legislation to provide for planning of educational services for handicapped children. These states are Alabama, Colorado, Connecticut, Georgia, Maryland, New Mexico, South Carolina, Tennessee, and Virginia.

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10. Frederick J. Weintraub, "State Law and Education of Handicapped Children: Issues and Recommendations," The Education of Handicapped Children, ed. Gene Hensley and Nancy Ellen Cain (Denver 1972) p. 22.
11. Idib., p. 22.

I. LEGISLATION ENACTED IN 1972

STATE	LEGISLATION (Partial Text, Section 5)
ALABAMA SOURCE State Legislative Council	Act #106. Section 5. The State Board of Education shall receive, review and approve or disapprove plans submitted by school boards hereunder, and shall consult and advise with school boards whose plans are disapproved, provided, however, that disapproval of a plan or any amendments thereto shall be only because of failure of the plan to meet minimum standards set out in regulations of the State baord adopted in accordance with Section 5 of this Act, and any such disapproval must specify in detail the reasons for such disapproval. If an approval cannot be worked out satisfactorily, the State Board of Education shall provide a plan which shall be binding on the school board unless its enforcement is restrained as provided in Section 4 above. The State Board of Education shall have the primary responsibility for enforcing compliance with such plans and with compliance of school boards with its regulations and the requirements of this Act. If any local board fails or refuses to implement the plan provided for under this Act, the Attorney General shall upon request of the State Board of Education, or upon the request of any private citizen, bring civil injunctive suits to enforce the implementation of such plan. If the State Board fails or refuses to carry out any duties required of it by this Act, the Attorney General shall upon the request of any private citizen, bring civil suits in Montgomery County to require that such duties be performed.

STATE	LEGISLATION (Text in Full)
COLORADO SOURCE State Department of Education	H.B. 1060. Section 2. (3) Every school district, separately or in combination with other school districts or boards of cooperative services, shall submit to the state board not later than January 1, 1974, a comprehensive plan for compliance with this secti n. (4) If any school district shall fail to submit an acceptable plan by ~~July 1, 1973~~, January 1, 1974, then it shall be the duty of the state board to devise and recommend prior to ~~January 1, 1974~~, July 1, 1974, a comprehensive plan for the education of handicapped children within such district.

STATE	LEGISLATION (Text in Full)
CONNECTICUT	H.B. 5505. An Act concerning the establishment of a state plan for special education. Be it enacted by the Senate and House of Representatives in General Assembly convened: Section 1. The state board of education, utilizing present personnel only, shall make and keep current a five-year plan for the implementation of the special education policy set forth in sections 10-76a to 10-76h, inclusive, and other pertinent sections of the 1971 supplement to the general statutes. The plan shall include: (1) A census of children requiring special education in the state, showing the total number of such children and the geographic distribution of such children as a whole; (2) an inventory of personnel and vacilities available to provide instruction and other programs and services to children requiring special education; (3) an analysis of the present distribution of responsibility for special education between the state, including state institutions, and local regional boards of education, together with recommendations for any changes in the distribution of responsibilities; (4) a formulation of goals, objectives and strategies necessary to achieve compliance with the special education law and to implement the various components of the plan required by this act; (5) a program for the recruitment, preparation and inservice training of professionals and paraprofessionals and supportive personnel in special education and allied fields, including participation by institutions of higher education, state and local agencies, and other appropriate public and private organizations; (6) procedures for identification, screening and diagnosis of children requiring special education and determination of the criteria for determining how such children are to be educated; (7) standards for the education in town and regional programs and in state institutions to be received by children requiring special education; (8) a program for the development, acquisition, construction and maintenance of classrooms, resource rooms and other facilities needed to implement fully the provisions of the special education law; (9) a policy on the roles of private schools and regional programs and services for children requiring special education; (10) a delineation of the roles of program personnel and the relationship of special education to the total education program; and (11) an analysis of the present formula and levels and patterns of financial support for special education and recommendations to insure the maximum use of funds to meet the educational needs of children requiring special education. Section 2. The development of the state plan shall include the participation of representatives of state agencies and institutions, public and private colleges and universities, professional and parent groups and organizations, local school organizations and the general public. Section 3. The complete state plan shall be submitted to the governor and the joint standing committee on education of the general assembly not later than December 1, 1973. Section 4. This act shall take effect July 1, 1972.
SOURCE State Legislative Council	

STATE	LEGISLATION (Partial Text, Section 3)
GEORGIA	#1234 (S.B. 676) Section 3. State Board of Education. The State Board of Education shall adopt a State Plan for a comprehensive Early Childhood Development Program and implement said plan to the extent that funds for this purpose may be available.
SOURCE	
State Legislative Council	

STATE	LEGISLATION (Partial Text, Section 1 (11), (12), (14))
MARYLAND	S.B. 927. Article 77B. (11) The State Board of Education shall make and keep current a plan for the implementation of the policy set forth in this Act. (12) (a) On or before January 1, 1973, each school district shall report to the State Board of Education the extent to which it is then providing the special education for handicapped children necessary to implement fully the policy of this Act. (b) For the purposes of this section, handicapped children being furnished special education in state schools or other state facilities shall continue to be the planning responsibility of the school board in which they would be entitled to attend school if it were not for the direct provision of special education to them by the state. (14) (a) If, at any time after January 1, 1973, a local school board is found by the State Department of Education to have failed to provide necessary education to all handicapped children who by law are entitled to receive the same from such school district, the State Department of Education may withhold all or such portion of the state aid for the regular public schools as, in its judgment, is warranted. The denial of state aid hereunder may continue until the failure to provide special education required is remedied. Whether or not the State Department of Education elects to withhold aid pursuant to the preceding sentence, it may provide the education directly. (b) However, no state aid pursuant to this Act shall be given to a school district during or for any period when the provision of special education on its account is being administered directly by the State Department of Education pursuant to this section.
SOURCE	
State Department of Education	
State Legislative Council	

STATE	LEGISLATION (Partial Text, Section 252b)
MICHIGAN	Public Act #198, Section 252b. (1) For the 1973-74 school year and thereafter the state board of education shall: (a) Develop, establish and continually evaluate and modify in cooperation with intermediate school districts, a state plan for special education which shall provide for the delivery of special education programs and services designed to develop the maximum potential of every handicapped person. The plan shall coordinate all special education programs and services. (b) Require each intermediate school district to submit a plan pursuant to subdivision (a) of section 298c, in accordance with the state plan and approve the same. (c) Promulgate rules setting forth the requirements of the plans and the procedures for submitting them. (d) A preliminary state plan shall be submitted to the legislature on or before July 1, 1972. (e) The final state plan shall be submitted to the legislature on or before March 1, 1973, including recommendations for funding special education programs and services. (2) For the 1973-74 school year and thereafter, if a local school district claims the existence of an emergency, due to extreme financial conditions because of insufficient operating funds or due to a severe classroom shortage and which emergency the local district claims renders it unable to provide special education programs and services in compliance with section 771a, it shall apply, in writing, to the state board no later than July 1 of the particular school year for approval to provide special education programs or services which do not comply with section 771a. (3) In its application the local school district shall demonstrate the need to provide noncomplying special education programs and services and shall include the proposed programs and services it can provide and the efforts to be undertaken to alleviate the emergency. If the state board finds an emergency exists in the local school district for such school year, the state board may approve the providing of noncomplying special education programs or services and prescribe conditions therefor. The state board may extend the filing date for good cause. (4) If the state board determines a local school district is not providing special education programs and services in compliance with section 771a, and the local school district has not obtained prior approval from the state board, the state board shall notify the local school district, in writing, of the noncompliance. Unless the local school district submits proof of compliance, or of an unforeseen emergency, within 30 days after receipt of the notice, the state board shall direct the intermediate district of which the local school district is a constituent to provide complying programs or services. The state board shall direct the intermediate district to provide only those programs or services which the state board determined are not in compliance with section 771a.
SOURCE State Legislative Council	

STATE	LEGISLATION (Partial Text, Chapter 95)
NEW MEXICO	S.B. 14, Chapter 95. 77-11-3.2 Special Education - Responsibility. A) The state board of education shall make, adopt and keep a current state plan for special education policy, programs, and standards.
SOURCE	
State Department of Education	

STATE	LEGISLATION (Text in Full, Section 4)
SOUTH CAROLINA	Act #977. Section 4. Each school district individually or in combination with other school districts shall conduct a survey of the educational needs of all handicapped children within its jurisdiction and, with the assistance of the State Department of Education, devise an educational plan for the children concerned. This plan shall provide instruction through the use of resource rooms, crisis teachers, itinerant teachers, diagnostic/prescriptive teachers, self-contained classes, or other models approved by the State Department of Education. The plan shall be presented to the department for approval within one year after the effective date of this Act. An annual report shall be made by each district to the department to indicate the extent to which the plan has been implemented and to report additional planning.
SOURCE	
State Department of Education	

STATE	LEGISLATION (Text in Full - Section 5 A-B)
TENNESSEE	H.B. 2053, Section 5, A, (1) The Commissioner of Education as head of the Department of Education, and acting through its Division for the Education of the Handicapped, shall make and keep current a plan for the implementation of the policy set forth in Section 1 of this Act. The plan shall include: a) A census of the handicapped children in the state showing the total number of such children and the geographic distribution of handicapped children as a whole. b) Provision for diagnosis and screening of handicapped children. c) An inventory of the personnel and facilities available to provide instruction and other services for handicapped children. d) An analysis of the present distribution of responsibility for special education between the state and local school systems and general units of local government, together with recommendations for any necessary or desirable changes in the distribution of responsibilities. e) Identification of the criteria for determining how handicapped children are to be educated. f) Standards for the education to be received by each of the several categories of handicapped children in regular schools or school districts and in state institutions, including methods of assuring that education afforded the handicapped will be as nearly equivalent as may be to that afforded regular children and also will take account of their special needs. g) A program for the preparation, recruitment and inservice training of personnel in special education and allied fields, including participation, as appropriate, by institutions of higher learning, state and local agencies, and any other public and private entities having relevant expertise. h) A program for the development, acquisition, construction and maintenance of facilities, and new, enlarged, redesigned and replacement facilities needed to implement the policy of this Act. i) A full description of the state plan for providing special education to all handicapped children in this state, including each of the matters enumerated herein, and any other necessary or appropriate matters. j) Any additional matters which may be necessary or appropriate, including recommendations for amendment of laws, changes in administrative practices and patterns of organization, and changes in levels and patterns of financial support. (2) The plan required by subsection A(1) of this Section shall be presented to the Governor and the General Assembly and made available for public distribution no later than October 2, 1972. Thereafter, amendments to or revisions of the plan shall be submitted to the Governor and General Assembly and made available for public distribution no less than 90 days prior to the convening of each regular session of the General Assembly. All such submission of the plan, except for the initial submission of the plan, shall detail progress made in fulfilling the plan and in implementing the policy of this Act. B (1) On or before the first day of July of each year, each school district shall report to the Commissioner of Education and the State Board of Education the extent to which it is then providing the special education for handicapped children necessary to implement fully the policy of this Act. The report also shall detail the means by which the school district or political subdivision proposes to secure full compliance with the policy of this Act including: a) A precise statement of the extent to which the necessary education and services will be provided directly by the district pursuant to law requiring such direct provision. b) A precise statement of the extent to which standards in force pursuant to subsection A (1) f) of this Section are being met. c) An identification and description of the means which the school district or political subdivision will employ to provide, at levels meeting
SOURCE State Legislative Council	

STATE	LEGISLATION
TENNESSEE	standards in force pursuant to subsection A (2) of this Section, all special education not to be provided directly by the state. (2) After submission of the report required by subsection B (1) of this Section, the school district shall submit such supplemental and additional reports as the Commissioner of Education and the State Department of Education may require, in order to keep the plan current. By rule or regulation, the State Department of Education shall prescribe the due dates, form and all other necessary or appropriate matters relating to such reports. (3) For the purposes of this subsection, handicapped children being furnished special education in state facilities shall continue to be the planning responsibility of the school district in which they would be entitled to attend school if it were not for the direct provision of special education to them by the state. A record of each such child, the nature and degree of his handicap and of the way in which his educational needs are being met shall be kept by the school district.

STATE	LEGISLATION (Partial Text)
VIRGINIA	H.B. 845. An Act to revise certain standards of quality for the several school divisions determined and prescribed by the Board of Education and to specify certain objectives for the Board of Education and local school boards. Whereas, Section 2 of Article VIII of the Constitution of Virginia provides that standards of quality for the several school divisions shall be determined and prescribed from time to time by the Board of Education, subject to revision only by the General Assembly; and Whereas, such Board has published such standards and it is now the wish of the General Assembly that such standards be hereby revised; now, therefore Be it enacted by the General Assembly of Virginia: 1. That the standards of quality for public schools in Virginia, as determined and prescribed by the Board of Education, are revised as follows: Personnel Standards. 1) Central Office (b) Each school division, shall have one additional State-aid professional position for every fifty State-aid teaching positions or major fraction thereof. Such positions shall be limited to instructional supervisors, including supervisor of special education, and visiting teachers. Program Standards. 4) Special Education. Each school division shall identify exceptional children, including the gifted, by use of diagnostic procedures and shall develop a plan acceptable to the Board of Education to provide appropriate educational opportunities for them. Such opportunities may be provided through local programs, regional cooperative programs, or tuition assistance for handicapped children where no public school program is available. Planning and Management Standards. Performance Objectives. 6) At least fifty thousand eligible children should be enrolled in special education programs. Planning and Management Objectives.
SOURCE State Legislative Council	

II. LEGISLATION INTRODUCED BUT NOT ENACTED IN 1972

STATE	LEGISLATION (Text in Full)
HAWAII	H.B. 308. Relating to the master plan for special education. WHEREAS, the commitment of the State to provide education and educationally related services to handicapped children is stated in section 301-22, Hawaii Revised Statutes,: "all exceptional children residing in the State be provided with instruction, special facilities, and special services for education, therapy, and training to enable them to lead normal competitive lives"; and WHEREAS, the Department of Education has been given the prime responsibility of achieving this goal in cooperation with the Department of Health, Department of Social Services and Housing, and the University of Hawaii; and WHEREAS, the Legislative Reference Bureau 1972 Report No. 6, Special Education in Hawaii, Part II, points out that Hawaii is not providing educational services to all handicapped students at present; and WHEREAS, a hundred percent attainment level of educational services to all handicapped children would require a hundred and fifteen percent increase in the amount of services provided; and WHEREAS, a multi-year plan with interim steps to reach the final goal of full service would greatly outweigh the impracticality of immediate attainment of a hundred percent level; and WHEREAS, if this goal is to be ultimately realized, the major leadership role in special education in Hawaii must be taken by the Special Education Branch of the Department of Education; and WHEREAS, Special Education in Hawaii, Part II, specifies several major flaws that are apparent in the organization of this branch at present, particularly the dysfunctional division of responsibilities; and WHEREAS, the result of this organizational and functional separation has been the development of two autonomous sections in the Special Education Branch and minimal coordination of efforts between the two sections; and WHEREAS, the Master Plan, using the task force approach, proposed by Special Education in Hawaii, Part II, would eliminate the flaws in the present organizational structure of the Special Education Branch of the Department of Education; now, therefore, BE IT RESOLVED by the House of Representatives of the Sixth Legislature of the State of Hawaii, Regular Session of 1972, that the Department of Education be requested to adopt the procedures for the development of a Master Plan recommended by Special Education in Hawaii, Part II, to develop its Special Education Branch; and BE IT FURTHER RESOLVED that certified copies of this Resolution be transmitted to the Superintendent of Education and to the Chairman of the Board of Education.

B. ADVISORY COUNCILS

Many states have created state advisory councils on the education of handicapped children to assist in the planning, coordinating, and providing of assistance to administering state agencies. These councils vary in their responsibilities and their policy making authority from state to state. For example, many states have advisory councils with specific responsibilities, some with no planning responsibilities, while others exist without clearly defined duties. A survey of the states' advisory councils and their activities prior to 1971 revealed that the authority of most such councils was largely limited to the coordination of activities of agencies and/or the recommending of procedures.

In a recent series of conferences sponsored by the Education Commission of the States, Fred Weintraub stated that legislation should contain statutes which "establishes an advisory council for the education of the handicapped, including the membership, their terms, and administrative procedures. Councils might have the following responsibilities:

... comment on proposed rules and regulations
... advise the state education agency
... review the state plan
... report annually to the Governor, Legislature, and the public its views on the progress of education of handicapped children."[12]

Prior to the 1972 legislative sessions, approximately twenty-five percent (25%) of the states had provisions within their legislation which provided for the establishment of advisory councils for the education and related services of handicapped children. States that enacted new or amended provisions in their legislation during the 1972 legislative sessions pertaining to advisory councils were: Colorado, Connecticut, Massachusetts, Missouri, Tennessee, Vermont, and Virginia.

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12. Weintraub, State Law and Education of Handicapped Children: Issues and Recommendations, p. 55.

States with statutory provisions establishing statewide advisory councils or committees on the education and other related services for the handicapped. (Enacted prior to 1972)	States with statutory provisions establishing statewide advisory councils or committees on the education and other related services for the handicapped. (Enacted in 1972)
Alaska	Colorado
California	Connecticut
Delaware	Kansas (amended)
Illinois	Massachusetts
Indiana	Tennessee
Kansas	Vermont
Kentucky	Virginia (amended)
Louisiana	
Minnesota	
Missouri	
New Jersey	
North Carolina	
North Dakota	
Texas	
Virginia	
Wisconsin	

STATE	LEGISLATION (Partial Text, Section 5, 123-22-14)
COLORADO	H.B. 1060, Section 5. 123-22-14. Advisory committee. In order to assist the department in the performance of its responsibilities for the implementation of sections 123-22-12 to 123-22-14, a state special education advisory committee of an appropriate size shall be appointed by the state board of education. The members of the committee shall include at least two special education teachers, at least two administrators with experience in special education, and at least two parents of children presently or formerly enrolled in special education programs. Members shall be appointed for one-year or two-year terms.
SOURCE	
State Department of Education	

STATE	LEGISLATION (Text in Full)
CONNECTICUT	H.B. 5478. Public Act #167. An Act establishing an advisory council for special education. Be it enacted by the Senate and House of Representatives in General Assembly convened: (a) There shall be an advisory council for special education which shall advise the state board of education and the secretary thereof, and which shall engage in such other activities as are hereinafter set forth. Said advisory council shall be composed of fifteen members who are not officers or employees of the state board of education, and no more than four of whom may be employees of town or regional school districts. Said advisory council shall be composed of persons broadly representative of community organizations interested in children requiring special education as defined in section 10-76a of the 1971 supplement to the general statutes, parents of such children, practicing members of the professions concerned with the educational needs of such children and members of the general public. The secretary of the state board of education shall appoint the members of said advisory council for three-year terms, except that of those first appointed, five shall be appointed for terms of three years, five for terms of two years and five for terms of one year. Vacancies shall be filled for unexpired terms in the same manner as original appointments. Members of said advisory council shall serve no more than two consecutive three-year terms. (b) Said advisory council shall elect annually its own chairman and other officers as deemed necessary. The designee of the secretary of the state board of education shall meet with and act as secretary to said advisory council. Members of said advidory council shall serve without compensation, but shall be reimbursed for all reasonable expenses incurred in the performance of their duties. The state department of education shall provide secretarial and administrative assistance to facilitate the activity of said advisory council. The commission for higher education shall appoint a liaison person to said advisory council. (c) Said advisory council shall (1) review periodically the regulations, standards and guidelines pertaining to special education and recommend to the state board of education any changes which it finds necessary, (2) comment on any new or revised regulations, standards and guidelines proposed for issuance, and (3) participate with the state board of education in the development of any state plan for provision of special education. (d) Said advisory council shall review annually with the joint standing committee on education of the general assembly the progress made by the state in serving
SOURCE	
State Legislative Council	

STATE	LEGISLATION
CONNECTICUT	those children requiring special education and any recommendations for the improvement of special education in the state.

STATE	LEGISLATION (Partial Text, Section 2, Section 1P)
MASSACHUSETTS	H.B. 6184, Section 2. Section 1P. There shall be established in each region a special education advisory council, consisting of at least 16 members, appointed by the department in consultation with the director of the regional branch to which such advisory council shall be attached. At least half of the members of each such council shall be parents; residing in the region, whose children are enrolled in a special education program, provided, however, that the department shall assure that no more than two parents on each such advisory council shall be parents of children who are not in public school day programs. Each member shall be appointed for a term of three years, provided, however, that when a council is first created five members shall be appointed for a one-year term, five for a two year term and six for a three year term. A member may not be appointed for more than two consecutive terms. Each advisory board shall advise the regional branch to which it is attached, with respect to all aspects of special education programs within the region and shall submit a written report annually on the quality and adequacy of such programs to the state advisory commission created under this section. In addition to its other powers and duties, the regional advisory council shall hear and transmit to such state advisory commission, complaints and suggestions of persons interested in special education in the region. Members of each regional adivsory council shall be granted access to special education programs and to information about such programs, subject to restrictions established by the board of education regarding confidentiality and shall be assisted in carrying out their duties by the regional branch of the division of special education. Members of the regional advisory councils shall be reimbursed by the commonwealth for expenses necessarily incurred in the performance of their duties. There shall be a state advisory commission for special education to the department. Each regional advisory council shall elect two representatives to the state advisory commission, at least one of whom shall be a parent or guardian whose child is receiving special education. The commissioners of the departments of mental health, public health and public welfare shall each appoint a representative to serve as ex-officio members of the commission. Members of the state advisory commission shall be reimbursed for expenses which are necessarily incurred in the performance of their duties. Such advisory commission shall annually submit a report to the department evaluating the quality and adequacy of special education programs in the Commonwealth and recommending improvements in those programs. The department shall implement the recommendations of the state advisory commission or shall state in a written reply why such recommendations cannot or should not be implemented; in such circumstances, the bureau responsible for hearing complaints and conducting investigations in the division of special education pursuant to section 1N shall attempt to resolve the disagreement informally; if a settlement cannot be reached, however, the state board of education shall conduct public hearings to investigate the bases for the disagreement

SOURCE

State Department of Education

State Legislative Council

STATE	LEGISLATION
MASSACHUSETTS	and resolve any dispute between the department and the state advisory commission.

STATE	LEGISLATION (Partial Text, Section 4, B 1, 2, 3, 4, 5)
TENNESSEE	H.B. 2053, Section 4. B. 1. There shall be an Advisory Council for the Education of the Handicapped which shall advise and consult with the Governor, the Commissioner of Education, the State Board of Education, and the Director of the Division for the Education of the Handicapped, and which shall engage in such other activities as are hereinafter set forth. The Advisory Council shall be composed of nine (9) members who are not officers or employees of State agencies and no more than four (4) of these nine (9) members may be officers or employees of local school districts. The Governor shall appoint the members of the Advisory Council for three (3) year terms of two (2) years, and three (3) for terms of three (3) years. Vacancies shall be filled for the unexpired term in the same manner as original appointments. 2. The Advisory Council shall be composed of persons broadly representative of community organizations interested in the handicapped, professions related to the educational needs of the handicapped, and the general public. 3. The Advisory Council annually shall elect its own chairman and vice chairman. The director of the Division for the Education of the Handicapped shall meet with and act as secretary to the Advisory Council, and within available personnel and appropriations, shall furnish meeting facilities and staff services for the Advisory Council. The Department of Education shall regularly submit, as part of its budget requests, an item or items sufficient to cover expenses of the operation of the Advisory Council and of its members in connection with their attendance at meetings of the Advisory Council and other Advisory Council activities. 4. The Council shall: a) Have an opportunity to comment on rules and regulations proposed for issuance pursuant to this Act. b) Consider any problems presented to it by the Governor, Commissioner of the Department of Education, State Board of Education or the Director of the Division for the Education of the Handicapped, and give advice thereon. c) Review the State Plan prepared pursuant to Section 5 of this Act prior to its submission to the Governor and Legislature and comment thereon to the Governor, Commissioner of the Department of Education, State Board of Education and the Director of the Division for the Education of the Handicapped. d) Make an annual report to the Governor and Legislature, and State Board of Education which report shall be available to the general public and shall present its views of the progress or lack thereof made in special education by the state, its agencies and institutions, and its school districts during the preceding year. 5. Funds for the publication of the report referred to in subsection B 4. of this section shall be made available from the regular appropriations to the State Department of Education.
SOURCE State Legislative Council	

STATE	LEGISLATION (Text in Full - Section 4B 1-5)
TENNESSEE	H.B. 2053, Section 4B (1) There shall be an Advisory Council for the Education of the Handicapped which shall advise and consult with the Governor, the Commissioner of Education, the State Board of Education, and the Director of the Division for the Education of the Handicapped, and which shall engage in such other activities as are hereinafter set forth. The Advisory Council shall be composed of nine (9) members who are not officers or employees of State agencies and no more than four (4) of these nine (9) members may be officers or employees of local school districts. The Governor shall appoint the members of the Advisory Council for three (3) year terms, except that the terms of those first appointed shall expire as follows: three (3) shall be appointed for terms of one (1) year, three (3) for terms of two (2) years, and three (3) for terms of three (3) years. Vacancies shall be filled for the unexpired term in the same manner as original appointments. (2) The Advisory Council shall be composed of persons broadly representative of community organizations interested in the handicapped, professions related to the educational needs of the handicapped, and the general public. (3) The Advisory Council annually shall elect its own chairman and vice chairman. The director of the Division for the Education of the Handicapped shall meet with and act as secretary to the Advisory Council, and within available personnel and appropriations, shall furnish meeting facilities and staff services for the Advisory Council. The Department of Education shall regularly submit, as part of its budget requests, an item or items sufficient to cover expenses of the operation of the Advisory Council and of its members in connection with their attendance at meetings of the Advisory Council and other Advisory Council activities. (4) The Council shall: a) Have an opportunity to comment on rules and regulations proposed for issuance pursuant to this Act. b) Consider any problems presented to it by the Governor, Commissioner of the Department of Education, State Board of Education or the Director of the Division for the Education of the Handicapped, and give advice thereon. c) Review the State Plan prepared pursuant to Section 5 of this Act prior to its submission to the Governor and Legislature and comment thereon to the Governor, Commissioner of the Department of Education, State Board of Education and the Director of the Division for the Education of the Handicapped. d) Make an annual report to the Governor and Legislature, and State Board of Education which report shall be available to the general public and shall present its views of the progress or lack thereof made in special education by the state, its agencies and institutions, and its school districts during the preceding year. (5) Funds for the publication of the report referred to in subsection B 4, of this section shall be made available from the regular appropriations to the State Department of Education.
SOURCE State Legislative Council	

STATE	LEGISLATION (Text in Full, Section 3)
VERMONT	S. 98, Section 3. 16 V.S.A. Article 2945 is amended to read: Article 2945. Advisory council on special education. (a) There is created an advisory council on special education which shall consist of the commissioner of education, the director of special education and other representatives of the department and agencies dealing with children who have special education problems and parents of these children. The size of the council and the period of service thereon shall be determined by the commissioner. (b) The commissioner shall be chairman of the council. The council shall meet annually at the call of the chairman, and other meetings may be called by the chairman at such times and places as he may determine to be necessary. (c) The members of the council shall receive no additional compensation for their services, but actual and necessary expenses shall be allowed state employees, and shall be charged to their department or institutions.
SOURCE	
State Department of Education	

STATE	LEGISLATION (Text in Full)
VIRGINIA	S. 311. Be it enacted by the General Assembly of Virginia: 1. That Article 22-9.3, as amended, of the Code of Virginia be amended and reenacted as follows: Article 22-9.3. Overall Advisory Council on Needs of Handicapped Children and Adults. There is hereby created an Overall Advisory Council on Needs of Handicapped Children and Adults composed of eighteen members to be appointed as follows: Two members from the Senate to be appointed by the President thereof, three members from the House of Delegates to be appointed by the Speaker; one member from the Department of Mental Hygiene, one member from the Virginia Commission for the Visually Handicapped, one member from the Medical College of Virginia, one member from the Medical College of the University of Virginia, one member from the Department of Welfare and Institutions, one member from the Department of Vocational Rehabilitation, and five members, at large, all to be appointed by the Governor. Appointments for terms expiring June thirtieth, nineteen hundred sixty-four shall be made as follows: One member shall be appointed for a term of one year, three members shall be appointed for a term of two years, three members shall be appointed for a term of three years and four members shall be appointed for a term of four years. Thereafter, all appointments shall be for terms of four years, and the members appointed by the Governor shall be subject to reappointment for one additional term at the pleasure of the Governor. The Council shall meet at least once a year. The Council shall continuously study the handicapping problems of children and the various phases of the programs for handicapped persons andmake such recommendations to the several agencies represented on the Council as the Council deems appropriate and proper. The Council shall also make and submit to the Governor from time to time such reports and recommendations as it deems necessary and expedient. Members of the Council shall receive no compensation for their services, but may be paid their necessary expenses traveling incurred in the performance of their duties.
SOURCE	
State Department of Education	

STATE	LEGISLATION (Text in Full, Section 1)
MISSOURI	H.B. 303. To establish a coordinating commission for the handicapped and defining its membership, powers and duties, with an expiration date. Be it enacted by the General Assembly of the State of Missouri, as follows: Section 1. (1) There is established a commission to be known as the "Coordinating Commission for the Handicapped," to be composed of a representative of each of the following agencies: the department of public health and welfare, the state department of education and the University of Missouri. These members shall be selected by the directors or governing boards of the several agencies and shall serve for indeterminate terms. (2) Four members shall be appointed from the senate by the president pro tem and four members from the house of representatives by the speaker. The term of each legislative member shall continue during his term of office. (3) Four members shall be appointed by the governor who shall be chosen for their recognized interest and knowledge in education, health, welfare, rehabilitation or related fields, and shall serve at his pleasure. (4) The legislative members shall be evenly divided between the two major political parties.
SOURCE	
State Legislative Council	

II. LEGISLATION INTRODUCED BUT NOT ENACTED IN 1972

STATE	LEGISLATION (Text in Full, Section 1)
HAWAII	H.B. 2321. Relating to the establishment of an advisory committee on special education and a coordinating committee on special education. Be it enacted by the legislature of the State of Hawaii: Section 1. Part II of chapter 301, Hawaii Revised Statutes, is amended by adding three new sections to be appropriately designated and to read as follows: Section 301. Advisory committee on special education; establishment of. There is established an advisory committee on special education composed of members who shall be appointed by the governor for terms of four years, except that the terms of the members first appointed shall be as follows: members for two years; members for three years; and members for four years. The governor shall designate the term of each member at the time of his appointment and no member shall serve for more than two consecutive terms. The membership of the committee shall include representatives from public and private agencies involved in providing special education services and representatives from the community interested and involved in the problems and concerns of special education. All members shall serve without compensation but shall be reimbursed for travel and other expenses incurred in the performance of their duties. Section 301. Duties of advisory committee. The advisory committee on special education shall assist the superintendent of education by: (1) Serving as a policy recommending and review committee for special education policy decisions; and (2) Providing an active and on-going forum for discussions and resolution on the important issues in special education, thereby allowing for a wide range of contributions in the decision-making process on special education. Section 301. Coordinating committee on special education. There is created a coordinating committee on special education composed of the head administrators of the department of education, department of health, department of social services and housing, and the University of Hawaii concerned with special education to: (1) Establish guidelines for specific activities in special education involving cooperative effort among public and private agencies; and (2) Discuss and develop inter-departmental policies on special education to encourage, promote, and require coordination of special education programs and activities.

SECTION IV. STATE RESPONSIBILITY AND ADVOCACY

If one believes that education is a state responsibility and that handicapped children are entitled to an education, then it follows that the advocacy for implementation of this right must reside with the state. All states have established within the state education agency a position or administrative unit to serve as an advocate for handicapped children and to coordinate the implementation of programs.

In an effort to provide a base for responsibility and advocacy, there is sometimes created in the state education agency a division for the education of the handicapped which constitutes the unit responsible for the development, supervision, and regulation of programs to educate handicapped children throughout the state.

I. LEGISLATION ENACTED IN 1972

STATE	LEGISLATION (Partial Text, Section 2)
MASSACHUSETTS	H.B. 6184, Section 2. Chapter 15 of the General Laws is hereby amended by adding after section 1L the following sections: Section 1M. The powers and duties of the division of special education shall include the following: (1) to regulate, consult with and assist school committees in the identification classification referral and placement of children requiring special education; (2) to regulate all aspects of and assist with the development of all special education programs supported in whole or in part by the commonwealth; (3) to coordinate the expertise of professionals from appropriate disciplines, both within and outside of the department of education and to be the coordinating agency for all state agencies providing educational assessment services and educational services to children requiring special education in order to provide special education programs which are as comprehensive as possible; (4) to compile data on and to cause all public schools and agencies and any private schools or agencies receiving any funds from the commonwealth to provide information relating to all children requiring special education who reside in the commonwealth and on all available special education programs supported in whole or in part by the commonwealth, to periodically review and analyze said data in order to evaluate said programs and to disseminate statistical data to any citizen or agency within the commonwealth upon request, provided that records pertaining to individuals are kept confidential; (5) to develop public information programs about the nature and extent of special educational needs of children resident in the commonwealth and about the availability of special education programs to meet those needs; (6) to develop and recommend to the board of education certification standards for educational personnel employed in special education programs and regulations to encourage greater use of para-professionals; (7) to cooperate with and assist public and private colleges and universities within the commonwealth in developing courses and programs best designed to prepare graduates to serve the educational requirements of children requiring special education; (8) to receive and investigate complaints and to conduct public and executive hearings with power of subpoena on behalf of an individual child or group of children receiving or requiring special education about any aspect of any special education programs and to initiate its own investigation without a complaint; (9) without prejudice to other state agencies to receive and allocate federal and state funds for programs for children requiring special education, subject to the priorities established by this section and Chapter 71B and such other additional priorities as may be established pursuant to section 1P by the board of education; (10) ro recommend to the board of education such rules, regulations and guidelines and to issue such directives as are necessary to carry out the purposes of this section and to execute other provisions of law relative to the administration of educational programs for children requiring or receiving special education; (11) to provide for the maximum practicable involvement of parents of children in special education programs in the planning, development, and evaluation of special education programs in the districts serving their children; (12) to approve the purchase, lease and maintenance of all special equipment for the instruction outside of the classroom of

SOURCE

State Department of Education

State Legislative Council

STATE	LEGISLATION
MASSACHUSETTS	children so handicapped as to make attendance in public school not feasible and to regulate the conditions under which such a child may be considered handicapped to an extent as to make his attendance in public school unfeasible; (13) to investigate into and hold hearings upon prima facie denials of equal educational opportunities by reason of national origin, sex, economic status, race, religion, or physical or mental handicap of school aged children requiring special education as defined in Section 1 of Chapter 71B and thereafter issue such declaratory and injunctive orders as may be necessary to cure any actual denials of equal educational opportunities by reason of national origin, sex, economic status, race, religion, and physical or mental handicap of school aged children requiring special education; (14) to require public or private schools and educational agencies receiving any funds from the Commonwealth to establish cost accounting and reporting procedures forms, schedules, rates and audits in conformity with department standards; and to make reports to the department at such times, in such fashion and on such forms as the department may require; (15) to conduct or contract with any federal, state or private agency for the conducting of research and development projects designed to improve the quality of special education programs or increase the efficiency of such programs; (16) in the event of funding shortages, to allocate resources proportionately; (17) to provide for placement of children requiring special education into public schools or agency programs near their place of residence and to allow other placements - in the event that suitable public programs or services cannot be provided; (18) and to take all steps, including but not limited to public hearings and investigations, necessary to insure that state and local expenditures for special education provide the maximum feasible benefit to every child receiving or reqiring special education; (19) to develop and recommend any appropriate parent or guardian counseling or education programs which are deemed necessary for the educational development of a child with special needs; (20) to recommend to the board that it withhold funds for special education programs from cities, towns or school districts, private schools or agencies which do not comply with regulations or statutes related to special education programs or do not carry out plans for such compliance within a reasonable period of time provided, however, that nothing contained in this clause shall be construed to prevent the board from withholding state and federal funds to the extent it deems necessary as provided in section one - G. Section 1N. There shall be established in the division of special education a sufficient number of bureaus to enable it to carry out the powers and duties enumerated in section 1M, and the board of education, upon the recommendation of the commissioner of education and the associate commissioner for special education, shall appoint a director with experience in the education of children with special needs for each bureau. One bureau shall be responsible for holding hearings and conducting investigations pursuant to paragraphs (8), (13) and (18) of section 1M, section 1P, and section 3 of chapter 71B. Section 1-O. There shall be established in each of the department of education regional offices a regional branch of the division of special education. Each regional branch shall be headed

STATE	LEGISLATION
MASSACHUSETTS	by a director with experience in the education of children with special needs appointed by the board of education upon the recommendations of the commissioner of education and the associate commissioner for special education and shall have the following functions: (1) it shall consult with and assist school committees in implementing the department's regulations, guidelines and directives in the area of special education; (2) it shall directly assist school committees in identifying, diagnosing and evaluating children with special needs and in developing special education programs to meet their individual educational needs; (3) it shall approve all special education placements by school committees of children with special needs; (4) it shall assist and encourage the formation of joint agreements between two or more school committees for the provision of special education; (5) it shall investigate and evaluate any special education program at the request of the department or on its own initiative; (6) it shall maintain a list and inform school committees of professional personnel within and without the region qualified to assess children with special needs pursuant to the provisions of Section 3 of Chapter 71B and shall make such information available upon request to parents, guardians or persons with custody of such children; (7) it shall have such other responsibilities as may be delegated to it by the department.

STATE	LEGISLATION (Partial Text)
KENTUCKY	S.B. 36. Be it enacted by the General Assembly of the Commonwealth of Kentucky: Section 1. A new section of KRS Chapter 157 is created to read as follows: (1) The State Board of Education shall create a "Bureau of Education for Exceptional Children" in the State Department of Education, separate from any other existing Bureau, to supervise and direct a State program for Exceptional Children of this Commonwealth. (2) The State Board of Education shall establish appropriate Divisions within the Bureau of Education for Exceptional Children. These Divisions shall include, but not be limited to, the following six Divisions: Learning Disabilities, Communication Disorders, Mental Retardation, Physically Handicapped, Intellectually Gifted, and Emotionally Disturbed. (3) It shall be the duty of this Bureau to recommend rules and regulations for adoption by the State Board of Education, and generally carry out the program provided for in KRS 157.200 through 157.305, KRS 157.360, and KRS 167.210 through 167.240. (4) This Bureau shall have an Assistant Superintendent of Public Instruction and necessary assistants appointed by the Superintendent of Public Instruction. No person shall be employed as Assistant Superintendent of Public Instruction of the Bureau of Education for Exceptional Children who does not hold a Master's degree in education, with emphasis in one or more areas of exceptionality.
SOURCE	
State Legislative Council	

STATE	LEGISLATION (Text in Full - Section 4A)
TENNESSEE	H.B. 2053, Section 4A. There is hereby established in the State Department of Education a Division for the Education of the Handicapped. The Division shall be headed by an Assistant Commissioner who shall be qualified by education, training, and experience to take responsibility for, and give direction to, the programs of the State Department of Education relating to the handicapped. This Division shall assume the duties and responsibilities currently the function of the Area of Special Education of the State Department of Education as well as those duties and responsibilities described in this Act. The Assistant Commissioner who shall head the Division shall be appointed by the Commissioner of Education in accordance with rules, regulations and directives currently in effect. Recommendations of individuals deemed qualified for this position may be made by the Advisory Council for the Education of the Handicapped hereinafter described in subsection 4B of this Section.
SOURCE State Legislative Council	

II. LEGISLATION INTRODUCED BUT NOT ENACTED IN 1972

STATE	LEGISLATION (Text in Full, Section 2)
ARIZONA	S.B. 1149. Section 2. Section 15-1012, Arizona Revised Statutes, is amended to read: 15-1012. Division of special education; director; duties; qualifications. A) There is created a division of special education to carry out the provisions of this article subject to the state superintendent of public instruction. B) The director of the division of special education shall be appointed by the state superintendent of public instruction with the advice and consent of the state board of education. The compensation of the director shall be determined pursuant to section 38-611. C) The director shall carry out the provisions of this article and the duties prescribed by the state board of education relating to the administration of the provisions of this article. D) The director shall supervise and evaluate the program of special education made available to each exceptional child. The director shall annually, in January, submit a written detailed report to the legislature as to any deviation from compliance with the provisions of this article. E) Only a person with at least a master's degree in education and who is experienced in special education is eligible for appointment as director of the division of special education.

SECTION V. FINANCE AND FUNDING PATTERNS IN THE STATES

The growth of the state role in education can be attributed in part to a greater dependence upon the state for financing public education. The financial problems of education derive largely from the evolving inabilities of the states to create and maintain systems that provide equal educational opportunities and quality education to all children. For example, the recent California state supreme court decision (Serrano, et. al. v. Priest as Treasurer, et. al.) held that: the level of spending for a child's publicly financed elementary or secondary education should not depend upon the wealth of the child's school district or family. This may prove to be the first step in placing total fiscal responsibility for education on the states. Another reason for the expanding state role in education is the growing number and variety of educational problems whose solutions may extend beyond local school district boundaries, e.g., education of the handicapped, vocational education, driver education, etc.

A related case, although not directly in line with the Serrano-type decision, considered the state's responsibility for providing equal educational opportunity for mentally retarded youngsters. This action was brought by the Pennsylvania Association for Retarded Children on behalf of handicapped children in the Commonwealth of Pennsylvania to seek equal educational opportunity for the mentally handicapped.

It is significant to note that the Commonwealth of Pennsylvania and the local school districts were deemed obligated to provide educational services for handicapped children comparable to those given to normal children, notwithstanding the differences in educational needs or instructional methods. The court was concerned with the equity of educational opportunity for all children, regardless of the additional costs of special educational programs for the handicapped. [13]

Costs of appropriate educational services for handicapped children are more expensive as compared with those of educating other children. While cost data often vary from study to study, Rossmiller (1970) reported that the cost of programs for the education of handicapped children ranges from the cost of educating a speech handicapped child, which is 1.18 times the cost of educating a normal child, to 3.64 for the education of a physically handicapped child. Factors relating to such high costs are primarily due to lower teacher-pupil ratios, ancillary personnel, transportation, and demographic factors such as rural areas where few numbers of handicapped children increases the per pupil costs of equipment and facilities. Rossmiller et. al., (1970) using their cost indices, project a minimum 1980 expenditure of about seven billion dollars to provide education to all handicapped children from ages 5 to 17. Projections for total educational expenditures in 1980-81 are 64 billion dollars.

In the 1972 session of the legislatures, the states of Arizona, Idaho, Illinois, Iowa, Kansas, Mississippi, New Mexico, Ohio, South Carolina, and Vermont amended finance and funding patterns to promote education of the handicapped in their states.

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13. Clifford L. Dochterman, Understanding Education's Financial Dilemma (Denver 1972), p. 13.

REIMBURSEMENT FORMULAS

All states have provisions for reimbursing local school districts for services for the handicapped. Reimbursement formulas may be grouped into three major categories:

1) Unit Reimbursement. Unit reimbursement formulas include pure unit support programs, percentage reimbursement, and straight sum reimbursement. Pure unit support programs provide one unit for each class of special education students; e.g., one major unit for 10 children instead of 24 children (as in general education). Percentage reimbursement programs are exemplified by states which assume a particular percentage of some of the varied costs of special education. Percentages reimbursed may vary considerably from state to state. Under straight sum reimbursement, the state reimburses specific sums for teachers, administrators, support personnel, etc.

2) Per Pupil Reimbursement. Examples of per pupil reimbursement would be systems utilizing an excess cost formula or a weighted formula.

3) Special Reimbursement. Special reimbursement procedures include all procedures involving specific supplemental support of the special education program; e.g., reimbursement for expenditure relating to instructional materials, facilities, in-service training, transportation, etc. Special reimbursement procedures are sometimes described as "special service allowances."

REIMBURSEMENT PATTERNS IN THE STATES[14]

These funding patterns are:

Alabama	Unit funding
Alaska	Unit funding
Arizona	Per pupil expenditure
Arkansas	Unit funding
California	Unit funding
Colorado	Percentage reimbursement
Connecticut	Percentage reimbursement
Delaware	Unit funding
Florida	Unit funding
Georgia	Unit funding
Hawaii	Totally state-operated system; therefore no special reimbursement procedures
Idaho	Percentage reimbursement
Illinois	Reimbursement by personnel categories
Indiana	Per pupil expenditure
Iowa	Excess cost
Kansas	Unit funding
Kentucky	Unit funding
Louisiana	Unit funding
Maine	Excess cost
Maryland	Per pupil expenditure
Massachusetts	Percentage reimbursement
Michigan	Percentage reimbursement
Minnesota	Reimbursement by personnel categories
Mississippi	Excess cost
Missouri	Unit funding
Montana	Unit funding
Nebraska	Per pupil expenditure
Nevada	Per pupil expenditure
New Hampshire	Law provides for full reimbursement of special education if appropriations permit
New Jersey	Percentage reimbursement
New Mexico	Unit funding
New York	No additional funding for special education
North Carolina	Unit funding
North Dakota	Per pupil expenditure
Ohio	Unit funding
Oklahoma	Unit funding
Oregon	Excess cost
Pennsylvania	Excess cost
Rhode Island	Per pupil expenditure
South Carolina	Unit funding
South Dakota	Reimbursement by personnel categories
Tennessee	Excess cost
Texas	Unit funding
Utah	Unit funding
Vermont	Percentage reimbursement
Virginia	Unit funding
Washington	Excess cost
West Virginia	Unit funding
Wisconsin	Percentage reimbursement
Wyoming	Unit funding

14. Summary of Analysis of State Special Education Finance Laws, State-Federal Information Clearinghouse/Council for Exceptional Children (Washington, D.C., 1970).

STATE	LEGISLATION (Text in Full)
ARIZONA	S.B. 1199. Be it enacted by the Legislature of the State of Arizona: Section 1. Purpose. The purpose of this act is to remove from the statutes a specific appropriation for the crippled children's hospital and crippled children in Pima County. The new section would permit the department of education to plan and prepare a program for this purpose and add required funds therefor in its annual budget. Section 2. Repeal. Sections 15-1001 and 15-1002, Arizona Revised Statutes are repealed. Section 3. Title 15, chapter 10, article 1, Arizona Revised Statutes, is amended by adding a new section 15-1001, to read: 15-1001. Program for education of crippled children; budget. A) The department of education shall prescribe a program for the education of crippled children. B) The department shall include in its annual proposed budget a request for sufficient monies to finance education for patients at the crippled children's hospital and for crippled children in the county of their residence.
SOURCE State Legislative Council	

STATE	LEGISLATION (Text in Full, Section 5)
IDAHO	H.B. 612, Section 5. That Section 33-2005, Idaho Code, be, and the same is hereby amended to read as follows: 33-2005. ~~Itinerant~~ Ancillary Personnel - Funding - Reimbursement ~~Organized Special Education Classes~~. Special educational services may be rendered by any school district or school districts for enrolled exceptional children, through the employment of full-time or part-time ancillary ~~or itinerant~~ personnel in accordance with the regulations and standards prescribed by the ~~department of education~~ state board of education. ~~Whenever a school district or school districts provide such services and employ such personnel in accordance with the department of education's standards each district or designated district shall include in its next following annual report a list of such personnel and the salaries paid; and the state board of education shall add eighty percent (80%) of the total thereof to the education foundation program of the district. Whenever exceptional children as defined herein are grouped in a special education organized class they shall qualify under the handicapped child factor of the education foundation program.~~ Any school district, or combination of districts, which contracts for the services of ancillary personnel shall be reimbursed by the state board of education from the public school income fund during the current year of employment for such services. Such reimbursement shall be payable quarterly. Payment shall be conditioned upon prior receipt of such records and reports as the state board of education shall require in order to substantiate claims for such services. Total payment shall be in amounts up to and including eighty percent (80%) of the quarterly salaries of such personnel, but shall in no instance exceed a total of eighty percent (80%) of an annual salary of ten thousand dollars ($10,000). Any school district which provides education for a resident student by contract with a rehabilitation center, hospital or corporation, or to a qualified resident homebound student by a certified instructor may be reimbursed by the state board of education from the public school income fund at the rate of eight percent (8%) of the state average classroom teacher salary of the preceding year for each such student in average daily attendance.
SOURCE State Legislative Council	

STATE

ILLINOIS

SOURCE

State Department of Education

LEGISLATION (Partial Text, Section 1)

H.B. 4156. Amends school code. Makes mandatory the payment by a school district of tuition or $2,000 per school year (not including summer session), whichever is less, plus transportation, for the education of each child who resides in that district and because of a handicap attends a non-public school or special education facility. Be it enacted by the People of the State of Illinois, represented in the General Assembly: Section 1. Section 14-7.02 of "The School Code," approved March 18, 1961, as amended, is amended to read as follows: Section 14-7.02. If because of his handicap a child attends a non-public school or special education facility that provides special educational services required by the child and is in compliance with the appropriate rules and regulations of the Superintendent of Public Instruction, the school district in which the child resides shall ~~may~~ pay the actual cost of tuition charged the child by that non-public school or special education facility or $2,000 per year, whichever is less, and shall ~~may~~ provide him any necessary transportation. However, transportation shall not be provided to a residential school. If such non-public school or special education facility provides a summer school program, then the tuition charged the child for the summer program or $500 per summer, whichever is less, may also be paid together with transportation by the school district in which the child resides.

STATE

IOWA

SOURCE

State Department of Education

LEGISLATION (Partial Text, Sections 28 & 29)

H.B. 654. Section 28. Section two hundred eighty-one point nine (281.9), Code 1971, is amended by adding the following new paragraph: "This section applies to all existing programs to July 1, 1973, and to the continuation of such existing programs after July 1, 1973." Section 29. Chapter two hundred eight-one (281), Code 1971, is amended by adding the following new section: A school district, county board of education, or joint county board of education that provides special education as required by this chapter shall, prior to March 1, 1972, and each March first thereafter, apply to the department of public instruction, upon forms prescribed by the department, for qualification to receive reimbursement pursuant to this chapter. During the following fiscal year the department shall approve each application and qualification if the district, county board of education, or joint county board establishes all of the following: 1) That there are sufficient students within the area who are in need of the instruction. 2) That the applying unit is the unit that can best and most efficiently provide for the instruction without duplicating services otherwise provided, as opposed to another available educational unit. 3) That the unit has qualified teachers available. 4) That the instruction is a natural and normal progression of a planned course or courses of instruction, and that this progressive growth factor is not out of proportion to the ability of the educational unit to pay for the courses of instruction. 5) That all reimbursement sought is for actual delivery of special education services and not for administrative costs. 6) Other factors as the department may require. There is hereby appropriated out of the general fund of the state to the department of public instruction beginning July 1, 1973, a sum sufficient to pay all approved applications for reimbursement pursuant to this chapter and this section, to the extent that the approved applications are for expanded special education programs beyond those

STATE	LEGISLATION
IOWA	programs provided for the fiscal year commencing July 1, 1971, or January 1, 1972, but only to the extent that the expanded programs would have qualified for state reimbursement pursuant to this chapter, as interpreted by the rules and regulations of the state department of public instruction effective on July 1, 1970.

STATE	LEGISLATION (Text in Full, Section 1)
KANSAS	S.B. 482. Be it enacted by the Legislature of the State of Kansas: Section 1. K.S.A. 1971 Supplement 72-5345a is hereby amended to read as follows: 72-5345a. The ~~governing body~~ board of education of any school district establishing ~~and maintaining~~ and operating, ~~and the governing body of any school district~~ or cooperating in the operation ~~and maintenance~~ of, a special class or program in the school district ~~as required by~~ under the provisions of K.S.A. ~~1970~~ 1971 Supplement 72-5345 ~~as amended is hereby authorized, with the approval of the state board of tax appeals, to~~ may levy a tax in each year of not to exceed one ~~(1)~~ ~~mill~~ and one-half (1½) mills on all taxable tangible property within the school district to maintain and operate or to cooperate in the maintenance and operation of such class or program.
SOURCE	
State Legislative Council	

STATE	LEGISLATION (Partial Text, Section 1)
MISSISSIPPI	H.B. 303. Be it enacted by the Legislature of the State of Mississippi: Section 1. Section 6248-02, Mississippi Code of 1942, is amended to read as follows: 6248-02. Teachers' salaries. The total number of teachers included in the program for each county and separate school district shall not be in excess of the number of teachers employed or the number of teacher units allowed, whichever number is smaller. The number of teacher units shall be determined by the State Board of Education for each county and for each separate school district for the current year by dividing the average daily attendance for the second and third months of the then current year by twenty-seven (27), but in no event to be less than ninety-five percent (95%) of that number arrived at by dividing the previous year's average daily attendance by twenty-seven (27); provided that a remaining major fraction of a unit shall be counted as a whole unit, and one-half (½) of a teacher unit each shall be added to the teacher unit allotment for each county and for each separate school district for each vocational teacher employed in a vocational education program approved by the State Board of Education, and sixty percent (60%) of a teacher unit for each teacher employed in a special education class as authorized by Chapter 283, Laws of 1952, being Section 6631-01, et seq., Mississippi Code of 1942, as now or hereafter amended and approved by the State Department of Education.
SOURCE	
State Department of Education	

STATE	LEGISLATION (Text in Full, Sections 1 & 3)
NEW MEXICO	H.B. 38, Chapter 87. Be it enacted by the legislature of the State of New Mexico: Section 1. Section 77-6-15 NMSA 1953 (being Laws 1967, Chapter 16, Section 69, as amended) is amended to read: 77-6-15. Equalization Fund. A) The "public school equalization fund" is created. B) This fund shall be distributed to school districts in the following parts: (1) basic program distributions; (2) special education distributions; (3) vocational education distributions; (4) transportation distributions; (5) qualification distributions; and (6) supplemental distributions: (a) equalization; (b) out-of-state tuition; (c) emergency; (d) isolated-essential schools; and (e) program enrichment. C) The distributions of the public school equalization fund shall be made within limits established by law. The balance remaining in the public school equalization fund at the end of each fiscal year shall revert to the general fund unless otherwise provided by law. Section 3. Section 77-6-19.2 NMSA 1953 (being Laws 1971, Chapter 263, Section 10, is repealed and a new Section 77-6-19.2 NMSA 1953 is enacted to read: 77-6-19.2. Special Education Entitlements. The state shall provide financial aid in each school year to school districts and other public institutions for education and related services provided by them for exceptional children. Aid will be determined and paid in accordance with this section and rules and regulations of the department of education. A) The distribution for special education reimbursement shall be determined as follows: (1) teacher costs for trainable mentally handicapped children shall be figured by multiplying one teacher per six special education pupils, by the appropriation unit for specialists in Section 77-6-18.4 NMSA 1953; (2) teacher costs for approved special education resource rooms shall be equal to the appropriation unit for specialists in Section 77-6-18.4 NMSA 1953; (3) teacher costs for all other special education classes shall be figured by multiplying one teacher per twelve special education pupils, by the appropriation unit for specialists in Section 77-6-18.4 NMSA 1953; and (4) supporting costs shall be figured at a percent of teacher cost determined by Paragraphs (1), (2), and (3) of this subsection for each school district with an approved program. The percent of supporting costs shall be determined by Section 77-6-18.3 NMSA 1953. B) Following approval by the state superintendent and the chief, distributions shall be made by the chief for special education programs in or between school districts. The state superintendent's approval and the chief's distribution shall be limited to reimbursements of certified unreimbursed expenditures of approved programs. The allowable reimbursements shall be determined by this section and regulations of the chief. C) Special education programs eligible for approval and distributions are those identified by standards and regulations of the department of education. Such programs must have been approved by the state superintendent and chief and certified by letter to the local superintendent, prior to school district receipt of any funds from the state.
SOURCE	
State Department of Education	
State Legislative Council	

STATE	LEGISLATION (Partial Summary)
OHIO	H.B. 475 makes certain changes in the school foundation program including: (1) places the calculation of special education, transportation, and vocational education units below the charge-off; (2) provides parental grants for nonpublic pupils; (3) provides new subsidies for the transportation of EMR students; and (4) eliminates a subsidy of $25 per pupil for pupils enrolled in county board of mental retardation programs.
SOURCE	
State Legislative Council	

STATE	LEGISLATION (Text in Full, Section 2)
SOUTH CAROLINA	R. 1672, H. 3440. Section 2. Section 21-295.3 of the 1962 Code, as last amended by Act #1079 of 1970, is further amended to read as follows: Section 21-295.3. The State Superintendent of Education shall reimburse school districts of the State for providing special educational services when in compliance with the provisions of this article and the rules and regulations of the State Board of Education, from the regular appropriations and for teachers' salaries, in such manner as is provided by law. Such State aid shall be allowed as follows: (1) For special education services for the educable mentally handicapped, State aid shall be allowed (a) for a teacher employed with a minimum average daily attendance of ten enrolled in a self-contained class, or (b) a teacher in educable mentally handicapped employed to serve a minimum average daily attendance of twenty-six educable mentally handicapped pupils for other instruction in a regular class. (2) For special education services for the trainable mentally handicapped, State aid shall be allowed for a teacher employed with a minimum average daily attendance of eight. (3) For special education for pupils with speech defects, State aid shall be allowed to school districts for speech clinicians (a) on the basis of one clinician per seventy-five speech handicapped children with this special aid being allowed notwithstanding the fact that such children may be counted for regular State aid in regular classes, or (b) on the basis of one clinician per one thousand five hundred students where severe speech problems are present requiring more intensified therapy. (4) For special education for emotionally handicapped children, State aid shall be allowed (a) for a teacher employed with a minimum average daily attendance of eight enrolled in a self-contained class, or (b) a teacher in emotionally handicapped employed to serve a minimum average daily attendance of twenty-six emotionally handicapped pupils enrolled for other instruction in a regular class. (5) For special education for hearing handicapped children, State aid shall be allowed (a) for a teacher with a minimum average daily attendance of six enrolled in a self-contained class, or (b) a teacher in hearing handicapped employed to serve a minimum average daily attendance of twelve hearing handicapped pupils enrolled for other instruction in a regular class. (6) For special education for visually handicapped children, State aid shall be allowed (a) for a teacher employed with a minimum average daily attendance of six enrolled in a self-contained class or (b) a teacher in visually handicapped
SOURCE	
State Legislative Council	

STATE	LEGISLATION
SOUTH CAROLINA	employed to serve a minimum average daily attendance of twelve visually handicapped pupils enrolled for other instruction in a regular class. (7) For special education for orthopedically handicapped children, State aid shall be allowed (a) for a teacher employed with a minimum average daily attendance of eight enrolled in a self-contained class, or (b) a teacher in orthopedically handicapped employed to serve a minimum average daily attendance of sixteen orthopedically handicapped pupils enrolled for other instruction in a regular class. (8) For special education for learning disabilities children, State aid shall be allowed (a) for a teacher employed with a minimum average daily attendance of ten enrolled in a self-contained class, or (b) a teacher in learning disabilities employed to serve a minimum average daily attendance of twenty-six learning disabilities children enrolled for other instruction in a regular class. (9) For teachers serving more than one type of handicapped pupil, State aid shall be allowed on the basis of the enrollment required for the handicapping condition affecting the majority of pupils served by the specialist. (10) The proportionate part of a teacher's salary will be allowed when such a teacher has less than the required minimum average daily attendance and enrollment. (11) If in any district there are handicapped children not able even with the help of transportation to be assembled in a school, instruction may be provided in a child's home, or in hospitals or sanitoria. Children so instructed may be counted under the provisions of this article. If the child is permanently disabled, the cost of classroom-to-home video or audio service shall be allowed at the rate of six-hundred dollars per year. The State Board of Education shall determine the number of hours of home instruction acceptable in lieu of regular school attendance.

STATE	LEGISLATION (Partial Text, Section 4)
VERMONT	S. 98, Section 4. 16 V.S.A. article 2948 is amended to read: Article 2948. State Aid. (a) For the payment of state aid, pursuant to sections 3441 through 3475 of this title, handicapped children shall be counted in the same manner as non-handicapped children. (b) Subject to the provisions of section 2944(c), the commissioner may award a school district, in addition to the state aid claimed and paid pursuant to subsection (a) of this section, and insofar as the cost of special education exceeds the average per pupil cost of the school district, a supplemental grant of seventy-five percent of the actual salaries and wages of special education personnel. In no instance shall the commissioner pay claims which exceed the total costs of this program to the school district. If any special education personnel are employed partly by one school district and partly by at least one other school district, and if there is no valid contract or agreement by which one of the districts is proper claimant for all of the aid in question, each such district shall be entitled to claim and receive a proportionate share in accordance with its actual assumption of salaries and wages of the personnel. The commissioner shall provide for the calculation and apportionment of this aid in cases covered by this subsection. (c) For the costs of essential early education provided by a school district or child care agency, and approved by the commissioner, the
SOURCE	
State Department of Education	

STATE	LEGISLATION
VERMONT	commissioner may pay reasonable costs of the actual salaries and wages of the teaching personnel for the initial three years of a newly established program, after which the commissioner shall grant seventy-five percent of the actual salaries and wages of the teaching personnel

II. LEGISLATION INTRODUCED BUT NOT ENACTED IN 1972

STATE	LEGISLATION (Text in Full, Section 1)
ALASKA	H.B. 777. For an Act entitled: "An Act relating to foundation program support of special education; and providing for an effective date." Be it enacted by the Legislature of the State of Alaska: Section 1. As 14.17.041(d) is amended to read: (d) Special education schedule:

ADM Full-time Equivalent	No. Instructional Units
5-8	1
9-15	2
16-23	3
24-32	4
33 and over	4 plus 1 for each 9 pupils or fraction of 9 ADM

STATE	LEGISLATION (Text in Full, Section 1)
KANSAS	Be it enacted by the Legislature of the State of Kansas: Section 1. K.S.A. 1971 Supplement 72-5345 is hereby amended to read as follows: 72-5345. The governing body of every school district shall establish an approvable special class or program for all developmentally disabled children in the school district, and such class or program shall meet eligibility standards set by the state board. Such classes and programs shall be planned and operative not later than July 1, 1974. Compliance with the requirements of this section may be accomplished through cooperative agreements among school districts, if such agreements are approved as provided by law. ~~The governing body of any school district which has established or proposes to establish a special class and desires to secure reimbursement from the state for part of the cost of maintaining the same shall certify and file an application with the director for the approval of such special class for such reimbursement. Said application shall be on a form prescribed and furnished by the division and shall contain such information as the division shall require and shall be filed on or before the first day of July of the year in which the school year for which such reimbursement is sought commences.~~ Commencing on July 1, 1972, the state board of education shall pay to each school district each month an amount sufficient in the opinion of the state board to finance the cost of operation of all special education programs for the ensuing month. Such payments shall be made for all types of special education authorized under article 53 of chapter 72 of Kansas Statutes Annotated. The state board shall adopt rules and regulations for the administration of this act.

STATE	LEGISLATION (Partial Text, Section 1)
MISSISSIPPI	H.B. 691. Be it enacted by the Legislature of the State of Mississippi: Section 1. Section 6248-02, Mississippi Code of 1942, is amended to read as follows: 6248-02. Determining the cost of the minimum education program. Teachers salaries. The total number of teachers included in the program for each county and separate school district shall not be in excess of the number of teachers employed or the number of teacher units allowed, whichever number is smaller. The number of teacher units shall be determined by the State Board of Education for each county and for each separate school district for the current year by dividing the average daily attendance for the second and third months of the then current year by twenty-seven(27) provided that a remaining major fraction of a unit shall be counted as a whole unit; and, one-half (½) of a teacher unit each shall be added to the teacher unit allotment for each county and for each separate school district for each vocational teacher employed in a vocational education program approved by the State Board of Education, and one (1) teacher unit for each teacher employed in a special education class as authorized by Chapter 283, Laws of 1952, being Section 6631-01, et seq., Mississippi Code of 1942, as now or hereafter amended and approved by the State Department of Education. In addition thereto, each county and separate school district shall be allotted one hundred fifty dollars ($150.00) per teacher unit as above determined for paying or supplementing superintendents' and principals' salaries; provided, however, that in any school which does not have a nonteaching principal or superintendent, a portion of the amount so allotted, in the discretion of the board of trustees, may be expended to supplement the salaries of vocational, agricultural, home economics teachers, or other instructors employed in such school district. The allowance in the minimum education program for teachers' salaries in each county and separate school district shall be determined and paid in accordance with the scale for teachers' salaries as provided herein for the number of teachers employed not in excess of the number of teacher units allotted; provided, however, if a county or a separate school district employs more teachers than the teacher units allotted, the state shall use the teachers of highest training in determining the allotment for salaries.

SECTION VI. ISSUE: EXTENDING MINIMUM AND MAXIMUM AGE RANGES

A. EARLY EDUCATION PROGRAMS FOR THE HANDICAPPED

Education programs for the handicapped have been primarily limited to children of "legal school age." In recent years, however, educational research and educational programs have demonstrated the importance of educating handicapped children at early ages.

In response to increasing evidence of the importance of early education for the handicapped, some states have moved to lower the school entry age for the handicapped, while others have passed laws which totally removed minimum age requirements. Handicapped children are generally said to represent about 10 to 12 percent of the total school population.

IMPAIRED									
SPEECH	VISUALLY	CRIPPLE AND OTHER HEALTH	HARD OF HEARING	DEAF	MULTIPLE HANDICAPPED	LEARNING DISABLED	MENTALLY RETARDED	EMOTIONALLY DISTURBED	TOTAL
327,900	9,400	46,800	46,800	7,000	5,100	93,700	309,200	180,800	1,026,700

Estimated number of preschool (CA 0-4) handicapped children in the United States in 1971-72.[15]

A national objective of the U.S. Office of Education/Bureau of Education for the Handicapped for Fiscal Year 1972 was to increase the enrollment by 100,000 preschool handicapped children in federal, state, and local programs. States in 1972 introducing legislation to amend or enact provisions for the education and services for preschool handicapped children included: California, H.B. 1011 (pending); Georgia, S.B. 676; Kansas, H.B. 2099; Illinois, H.B. 323; Michigan, P.A. 198; Vermont, S. 98; and Virginia, S.B. 143 and H.B. 770.

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15. "Estimates on the Number of Children Served/Unserved 1971-1972," Fiscal Year Projected Activities.

I. LEGISLATION ENACTED IN 1972

STATE	LEGISLATION (Text in Full, Sections 1 & 2)
GEORGIA	S.B. 676. Be it enacted by the General Assembly of Georgia: Section 1. Short Title. This Act shall be known and may be cited as the "Early Childhood Development Act." Section 2. Purpose and Objectives. The purpose of this Act is to provide for a sound program of early childhood development. This Act recognizes the importance of parental responsibility for rearing children and seeks to supplement the resources which parents have available to meet the mental, physical and emotional needs of their children. This Act provides for the development of a State plan for these purposes which local school system boards of education and other agencies of the State cooperate to plan and implement early childhood development programs, including but not limited to, programs to meet the recognized needs of children whose parents voluntarily seek testing, diagnosis, and treatment of physical or mental handicaps of children from 1 to 3 years of age; education programs for children 5 years of age and for children 3 to 5 years of age who have physical or mental handicaps.
SOURCE State Legislative Council State Department of Education	H.B. 1204. General Appropriations Act amended. Provided that of the above appropriated amount, relative to Early Childhood Development Services, the entire appropriation shall be utilized to ascertain those children who are mentally and physically deficient and to provide treatment for such children during preschool years, and for the purpose of funding a kindergarten or preschool program for those children in areas that qualify under Title IV funds provided the program has been approved by the General Assembly. Early childhood development services appropriations are $500,000.

STATE	LEGISLATION (Text in Full)
KANSAS	H.B. 2099. An Act repealing K.S.A. 1971 Supplement 72-5360a concerning age of exceptional children to qualify for certain state financial aid. Be it enacted by the Legislature of the State of Kansas: Section 1. K.S.A. 1971 Supplement 72-5360a is hereby repealed. Section 2. This act shall take effect and be in force from and after its publication in the statute book.
SOURCE State Legislative Council	

STATE	LEGISLATION (Partial Text)
ILLINOIS	H.B. 323. Section 1. Sections 14-1.03, 1401.04, 14-1.05 and 14-1.06 of "The School Code", approved March 18, 1961, as amended, are amended to read as follows: Section 14-1.03. Maladjusted Children. "Maladjusted children" means children between the ages of 3 and 21 years. Section 14-1.04. Educable mentally handicapped children. "Educable mentally handicapped children" means children between the ages of 3 and 21 years. Section 14-1.05. Trainable mentally handicapped children. "Trainable mentally handicapped children" means children between the ages of 3 and 21 years. Section 14-1.06. Speech defective children. "Speech defective children" means children between the ages of 3 and 21 years. Section 2. This amendatory act shall take effect on July 1, 1972.
SOURCE	
Office of the Superintendent of Public Instruction	

STATE	LEGISLATION (Partial Text, Sections 1 & 2)
VERMONT	S. 98. It is hereby enacted by the General Assembly of the State of Vermont: Section 1. 16 V.S.A. Article 2942 is amended to read: Definitions. As used in this chapter, the following words and terms shall have the following meanings unless the context otherwise requires: (3) "Essential early education", the education of handicapped children prior to legal school age for the early acquisition of fundamental skills. Section 2. 16 V.S.A. Article 2944 is amended to read: Special education. Within the limits of funds made available for purposes of this chapter and the availability of trained personnel, the commissioner shall provide for the essential early education and for the special education of handicapped children in such schools and public programs as he may designate. The commissioner may provide for the private instruction of such persons, and those temporarily or permanently homebound or hospitalized and who cannot advantageously or safely be educated in regular classes when private instruction will best serve the interest of such persons.
SOURCE	
State Department of Education	

STATE	LEGISLATION (Summary)
MICHIGAN	Public Act #198. For the 1973-74 school year and thereafter the state board of education shall develop, establish and continually evaluate and modify in cooperation with intermediate school districts a state plan for special education which shall provide for the delivery of special education programs and services designed to develop the maximum potential of every handicapped person. The final state plan shall be submitted to the legislature on or before March 1, 1973 with recommendations for funding special education programs and services. This Act assures the rights as well as the opportunities for an appropriate education for all handicapped persons from birth-25. Handicapped include, but not limited to, mental, physical, emotional, behavioral, sensory, and speech handicaps.
SOURCE	
State Legislative Council	

STATE	LEGISLATION (Partial Text, Section 1)
VIRGINIA	S.B. 143. Be it enacted by the General Assembly of Virginia: That Sections 22-9.1, 22-9.1:4 and 22-9.2:1, as amended, be amended and reenacted and that the Code of Virginia be further amended by adding sections numbered 22-9.1:01 through 22-9.1:06 as follows: 22-9.1. Special education for handicapped children. The Board of Education shall prepare and place in operation a program of special education designed to educate and train handicapped children between the ages of two and twenty-one years and may prepare and place in operation such program for such individuals of other ages. In the development of such program, the Board of Education shall assist and cooperate with local school boards in the several school divisions. The Board of Education shall adopt such rules and regulations as may be necessary to secure adequate special education for handicapped individuals. In the development of such program, the Board shall cooperate with the Commission for the Visually Handicapped.
SOURCE	(Partial Text)
State Legislative Council	H.B. 770. Be it enacted by the General Assembly of Virginia: 1) That Section 22-9, as amended, of the Code of Virginia be amended and reenacted as follows: 22-9. Visually impaired children. (a) The Virginia Commission for the Visually Handicapped shall prepare and place in operation a program of special education services designed to meet the educational needs of visually impaired children between the ages of birth and twenty-one and may prepare and place into operation such programs for such individuals of other ages. In the development of such a program, the Virginia Commission for the Visually Handicapped shall cooperate with the State Board of Education and local school boards in the several school divisions. (b) When visually impaired children are enrolled in a county or city school division, the local school authorities, in cooperation with the Virginia Commission for the Visually Handicapped, shall establish and maintain special programs for their education in the public schools. All such special programs for visually impaired children shall be operated jointly by the local school board and the Virginia Commission for the Visually Handicapped.

II. LEGISLATION INTRODUCED BUT NOT ENACTED IN 1972

STATE	LEGISLATION (Text in Full)
ALASKA	H.B. 773. A Bill for an Act entitled: "An Act relating to the legal school age for certain children." Be it enacted by the legislature of the State of Alaska: Section 1. As 14.03.070 is amended to read: Section 14.03.070. School Age. A child who is six years of age or who will become six years of age before November 2 following the beginning of the school year, and who is under the age of 20 and has not completed the 12th grade, is of school age. However, a child who is mentally retarded, physically or emotionally handicapped or who has learning disabilities is of school age from the time of his birth.

III. LEGISLATION AFFECTING FEDERAL FUNDING

Federal programs administered by the U.S. Office of Education/Bureau of Education for the Handicapped promoting assistance to preschool handicapped children are: (fiscal year 1971 statistics)

TYPE OF ASSISTANCE	AUTHORIZATION	PURPOSE	APPROPRIATION FY 1971	WHO MAY APPLY	WHERE TO GET INFORMATION
Programs for the Handicapped, Preschool, Elementary and Secondary	Education of the Handicapped Act, P.L. 91-230, Part B	To strengthen educational and related services for handicapped, preschool, elementary and secondary children	$34,000,000	Local agencies apply to State Departments of Education	Division of Educational Services, Bureau of Education for the Handicapped
Early Education for Handicapped Children	Education of the Handicapped Act, P.L. 91-230, Part C, section 623	To develop model preschool and early education programs for handicapped children	$7,000,000	Public agencies and private nonprofit agencies	Division of Educational Services, Bureau of Education for the Handicapped

B. CONTINUING (CAREER) EDUCATION FOR THE HANDICAPPED

Martin (1971) estimated that over the next four (4) years:

... 2.5 million handicapped children will end their educational programs by graduation or the drop-out route.
... Of the 2.5 million, less than one (1) in four (4) will be fully employed or college bound.
... Another one million (40%) will be under-employed.
... Twenty-five percent (25%) of this population will probably require welfare assistance.[16]

If the states plan for appropriate career education and appropriate placement programs, many more handicapped persons can be adequately educated and eventually employed and productive citizens.

"Most compulsory school attendance laws have as their upper range ages 16 to 17. Many handicapped youth of this age group, particularly the mentally retarded, find their education abruptly terminated, despite the fact that many could continue to profit from more schooling."[17]

More than half of the states presently authorize programs for the handicapped until the age of 21. Under special provisions, Kansas may provide educational services for handicapped youth until the age of 24; Iowa (State School for the Deaf) until the age of 35. In Oklahoma and Ohio no maximum age is listed for provisions of special education services. In the 1972 legislative session in the State of Montana, H.B. 450 was enacted to provide education services to the mentally retarded to age 25.

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16. Edwin Martin, "New Public Priority: Education of Handicapped Children," Compact, V (August 1971), 6.
17. Weintraub, Abeson, and Braddock, p. 26.

I. LEGISLATION ENACTED IN 1972

STATE	LEGISLATION (Partial Text, Section 1 - Text in Full, Section 2)
MONTANA	H.B. 450. A Bill for an Act entitled: "An Act amending sections 75-7806 and 75-7816, R.C.M., 1947, provide for education of mentally retarded to age twenty-five (25)." Be it enacted by the legislative assembly of the State of Montana: Section 1(6) Educable mentally retarded persons or physically handicapped persons who are not less than twenty-one (21) or more than twenty-five (25) years of age when the superintendent of public instruction has determined that such programs will assist a person to achieve levels of competence that will enable him to better participate in society. Section 2. Section 75-7816, R.C.M., 1947, is amended to read as follows: Financial assistance for under six year old special eduation class or program. Any district operating an approved special education class or program for children under the age of six (6) years or for people who are not less than twenty-one (21) or more than twenty-five (25) years of age shall be eligible for financial assistance in accordance with section 75-7813 and for transportation reimbursement under section 75-7815.
SOURCE	
State Department of Education	

STATE	LEGISLATION (Summary)
MICHIGAN	Public Act #198. For the 1973-74 school year and thereafter the state board of education shall develop, establish and continually evaluate and modify in cooperation with intermediate school districts a state plan for special education which shall provide for the delivery of special education programs and services designed to develop the maximum potential of every handicapped person. The final state plan shall be submitted to the legislature on or before March 1, 1973 with recommendations for funding special education programs and services. This Act assures the rights as well as the opportunities for an appropriate education for all handicapped persons from birth-25. Handicapped include, but not limited to, mental, physical, emotional, behavioral, sensory, and speech handicaps.
SOURCE	
State Legislative Council	

SECTION VII. MANPOWER PREPARATION FOR HANDICAPPED CHILDREN

A national effort by the U.S. Office of Education/Bureau of Education for the Handicapped, the Education Commission of the States, and other organizations and agencies has been launched in an effort to insure that every handicapped child will be receiving an appropriate education by 1980. For Fiscal Year 1972, the U.S. Office of Education/Bureau of Education for the Handicapped awarded nearly 33 million dollars (FY 71) to institutions of higher education and state education agencies to prepare educators for the handicapped. About 18,000 new teachers and leadership personnel graduated in 1972 from programs supported in part by these funds and another 15,000 received inservice training to improve and develop competence.

Manpower needs, based on a ratio of approximately 20 handicapped pupils per teacher, reveal that:

... 370,000 qualified teachers are needed to adequately serve the school-age handicapped population in the United States.
... Presently, some 125,000 teachers of the handicapped are employed, one-half of which are not certified for such training.
... There is a current need for 245,000 special education teachers of school-age children.
... Another 60,000 are needed to serve approximately one million preschool handicapped children.
... 300,000 additional teachers would be needed immediately if the states were to fulfill the national commitment to equal educational opportunity for the handicapped.[18]

While special education teachers and support personnel must be trained to work with the handicapped, there is also need for the regular teachers to identify the handicapped in their classrooms as well as to effectively teach those who remain in the normal classes. In recognition of these needs, the Education Professions Development Act (EPDA) P1 90-35, a program that stressed the training and retraining of regular classroom teachers to understand and respond to the needs of handicapped children, earmarked through an agreement between the Bureau of Education for the Handicapped and the Education Personnel Development about 15 percent of the total appropriations to be spent in the area of supporting and training of special education personnel.

As of Fiscal Year 1971, the total contributions from federal agencies to assist institutions of higher education and state education agencies in the preparation of leadership personnel and research and services activities for educating the mentally retarded was $200 million; state and local contributions totaled $1.75 billion.

Despite these advances, there continues to be a need for trained personnel. About 25 percent of the states currently have legislation providing for financial assistance for persons preparing to work in the area of education of the handicapped. In 1972, several states enacted or amended provisions in their legislation providing financial assistance for part-time or full-time study for the preparation of personnel. Some of these states are: Alabama, Act #106; Illinois, H.B. 4420; Tennessee, H.B. 2053; Vermont, S. 98; and Virginia, S. 152.

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18. Abeson and Weintraub, "State Law for the Handicapped - Essential Ingredients," p. 44.

MANPOWER PREPARATION IN THE STATES (1971-72)

A. LEGISLATION AFFECTING FEDERAL FUNDING

Federal programs (FY 1971) administered by the U.S. Office of Education/Bureau of Education for the Handicapped to assist institutions of higher education and state education agencies for the preparation of teacher training were:

TYPE OF ASSISTANCE	AUTHORIZATION	PURPOSE	APPROPRIATION FY 1971	WHO MAY APPLY	WHERE TO GET INFORMATION
Training personnel for the education of the handicapped	Education of the Handicapped Act P.L. 91-230, Part D, Section 631, 632	To prepare and inform teachers and others who work in the education of the handicapped	$31,900,000	State education agencies, institutions of higher education, and other appropriate nonprofit institutions or agencies	Division of Training Programs, Bureau of Education for the Handicapped
Training of physical educators and recreation personnel for handicapped children	Education of the Handicapped Act P.L. 91-230, Part D, Section 634	To train personnel in physical education and recreation for the handicapped	$700,000	Institutions of higher education	Division of Training Programs, Bureau of Education for the Handicapped

B. LEGISLATION AFFECTING STATE FUNDING

STATE	LEGISLATION (Text in Full, Section 12)
ALABAMA	Act #106, Section 12. Scholarships for Special Teachers. The State Board of Education is authorized to make training grants to professional personnel who seek special training in exceptional child education to qualify said personnel to meet professional requirements set forth in said State Board's regulations, and shall be responsible for the administration of said program. Such grants are limited to personnel who are under contract to work in the exceptional child program in this State, the training schools, the child training centers, and at the various residential facilities for exceptional children throughout the state for such contractual periods as the State Board of Education may by regulation specify, and to regular students who plan to work in the exceptional child program in this State and who sign a commitment satisfactory to the State Board of Education that they will take an appropriate available job at any location within the State of Alabama upon graduation or completion of their studies. Such commitments shall be binding upon those who sign them and receive scholarship aid, but the State Board of Education may waive the enforceability thereof in the event of extreme and unforeseen hardship. Each grant shall cover the cost of tuition, housing and food, from a minimum dollar amount for residence enrollment in specific courses approved by the state superintendent under the regulations of the State Board of Education. Said courses for which scholarships may be made available are those offered on the campuses of the institutions of higher learning in this State, except where necessary courses are not offered in this State. Where courses are not offered in this State in the areas requiring certification in exceptional child education, the recipient may receive said grant for attending an out-of-state institution of higher learning approved by the State Board of Education to meet the professional requirements of the State of Alabama.
SOURCE	
State Legislative Council	

STATE	LEGISLATION (Text in Full of Synopsis)
ILLINOIS	H.B. 4420, Chapter 122. Amends the School Code to authorize the State Scholarship Commission to award grants to teachers for enrollment in special education programs. Specifies the eligibility of teachers, limits such grants and empowers the Commission to approve institutions of higher learning providing special education courses. Obligates participating teachers to teach in poverty areas. Provides an appropriation of $100,000 to the State Scholarship Commission for grants to teachers and administration.
SOURCE	
State Legislative Council	

STATE	LEGISLATION (Text in Full - Section 9C 1-6)
TENNESSEE	H.B. 2053, Section 9, C (1) The Division for the Education of Handicapped as authorized by the State Board of Education may make traineeship or fellowship grants available to professional personnel who desire to work in programs for the education of handicapped children, for either part-time or full-time study, to qualify them to meet professional requirements as required by the State Board of Education. (2) Persons to qualify for a traineeship must have earned at least sixty (60) semester hours of college credit and persons to qualify for a fellowship must be graduates of a recognized college or university. Such traineeships and fellowships may be in amounts of not more than $2,000 per academic year for traineeships and not more than $2,500 per academic year for fellowships with $750 per year per local dependent except an additional sum annually for each grantee may be allowed to any approved institution of higher learning in this state for the actual cost to the institution, as certified by the institution. Part-time students and summer session students may be awarded grants on a pro rata basis. (3) The Division for the Education of the Handicapped as authorized by the State Board of Education shall be responsible for the administration of this program and shall maintain related records of each person approved for training pursuant to this subsection. Working with the local school districts, the Division for the Education of the Handicapped shall provide training programs that will be directed toward meeting the needs of a particular school district and/or system. (4) Such training programs shall not be limited to new teacher recruits, but the experienced special education teacher must be included in well planned, sequential training programs that emphasize the teacher as an educational diagnostician and a planner, utilizing teacher aides to assist in the implementation of the planned program. In every instance possible, training programs should be "in-house", utilizing qualified local school staff as well as university personnel in the implementation of training program activities. These teacher training programs should demonstrate a philosophy in a school environment and atmosphere that minimizes "labeling" and emphasizes the child as "a part of rather that apart from". (5) The Division for the Education of the Handicapped may contract with any approved institution of higher learning as well as utilize qualified local school staff to offer courses and provide related training sessions for the trianing of special education personnel at such times and locations as may best serve the needs of handicapped children in this state. (6) The grants described herein may be approved for those personnel who are under contract to work in the exceptional child program in this state, the training schools, and at the various residential facilities for exceptional children throughout the state for such contractual periods as the State Board of Education may by regulation specify, and/or to those individuals who plan to work in the exceptional child program in this state and who sign a commitment satisfactory to the State Board of Education that they will take an appropriate available job within the State of Tennessee upon graduation or completion of their studies. Such commitments shall be binding upon those who sign them and receive scholarship aid, but the State Board of Education may waive the enforcibility thereof in the event of extreme and unforeseen hardship.
SOURCE State Legislative Council	

STATE	LEGISLATION (Partial Text, Section 2, Article 2944d)
VERMONT	S. 98, Section 2, Article 2944 (d). The commissioner with the advice of the board may make grants for programs and grants, subject to conditions which he shall establish, to persons whom he finds qualified for either part-time or full-time study in programs designed to qualify them as special education personnel.
SOURCE	
State Department of Education	

STATE	LEGISLATION (Text in Full)
VIRGINIA	S. 152. Be it enacted by the General Assembly of Virginia: 1. That the Code of Virginia be amended by adding in Chapter 4 of Title 23 a section numbered 23-38.11 as follows: Section 23-38.11. There are hereby established traineeships which shall be awarded to persons who are interested in working in programs for the education of handicapped children for either part-time or full-time study in programs designed to qualify them as special education personnel in the public schools. Applicants for such traineeships shall be graduates of a recognized college or university. The award of such traineeship shall be made by the State Board of Education and the number of awards during any one year shall depend upon the amounts appropriated by the General Assembly for this purpose. The amount of each traineeship shall be four hundred fifty dollars for a minimum of six semester hours of course work in areas relating to special education to be taken by the applicant during a single semester or summer session. This program shall be administered by the State Department of Education under rules and regulations promulgated by the State Board of Education.
SOURCE	
State Legislative Council	

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